Acts and joint resolutions of the General Assembly of the State of South Carolina

South Carolina. Columbia.

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RESOLUTIONS

OF THE

GENERAL ASSEM BILTY

OF THE

UNIVERSITY OF IOWA

STATE OF SOUTH CAROLINA,

PASSED AT THE

REGULAR SESSION OF 1868-69.

PRINTED BY ORDER OF THE GENERAL ASSEMBLY, AND DESIGNED TO FORM A PART OF THE FOURTEENTH VOLUME OF THE STATUTES AT LARGE, COMMENCING WITH THE ACTS OF 1868.

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ERRATA.

On page 440, Section 84, in fifth line, read "Circuit," instead of "Supreme Court."

On page 475, Section 252, in fourteenth line, read "Clerk of the Court of Common Pleas," instead of "Clerk of the County."

On page 490, Section 307, in thirteenth and fourteenth lines, read "Clerk of the Circuit Court," instead of "Clerk of the County."

On page 521, Section 439, in third line, read "provided," instead of "prescribed."

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STATUTES AT LARGE

OF THE

STATE OF SOUTH CAROLINA.

A. D. 1808

No. 1.

AN ACT ACCEPTING THE BENEFITS OF "AN ACT DONATING PUBLIC LANDS TO THE SEVERAL STATES AND TERRITORIES WHICH MAY PROVIDE COLLEGES FOR THE BENEFIT OF AGRICULTURE AND THE MECHANIC ARTS,' APPROVED THE SECOND DAY OF JULY, IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-TWO.

Whereas, by an Act of Congress, approved the twenty-third day of July, in the year of our Lord one thousand eight hundred and sixty eix, he hards entitled "An Act to amend the fifth Section of an Act entitled 'An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts,' approved the second day of July, in the year of our Lord one thousand eight hundred and sixty-two, so as to extend the time within which the provisions of said Act shall be accepted and such colleges established, it was, among other things, by the Senate and House of Representatives of the United States of America, in Congress assembled, enacted that the time in which the several States may comply with the provisions of the said Act of July second, eighteen hundred and sixty two, entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," is extended so that the acceptance of the benefits of the said Act may be expressed within three years from the passage of the Act first above mentioned:

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State of South Carolina does hereby express its acceptance of the benefits of the said Act of Congress, approved on the second day of July, in the year of our Lord one grant. thousand eight hundred and sixty-two, entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," and does hereby assent to the provisions in said Act contained, and to the conditions on which the graut of land and scrip by said Act authorized is made, and prescribed binds herself to the faithful performance of all the stipulations by her to

STATUTES AT LARGE

A. D. 188.

be assumed in said Act contained; and it is further desired that the State may be allowed to use the same for the establishment and support of a system of common free schools, if the State may so desire.

II. Upon the passage of this Act, the Governor of the State is authorized to take such measures as he may deem necessary to secure the early realization of the benefits of the Act above mentioned.

In the Senate House, the twenty-second day of July, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

No. 2. AN ACT to authorize and empower the Governor to effect a loan, in behalf of the State, of one hundred and twenty-five thousand dollars.

I. Be it enacted by the Senate and House of Representatives of the Loun of the State of South Carolina, now met and sitting in General Assembly, and twenty-five thou. by the authority of the same, That the Governor be, and he is hereby, and dollars authorized and empowered to negotiate a loan of one hundred and twenty-five thousand dollars, or so much thereof as is necessary to meet the current expenses of the State, at the lowest rate of interest possible; and that, for this purpose, he is authorized to use, as collateral security, such an amount of the Bills Receivable, bonds, stocks, or other securities, owned by the State, as may be necessary to effect the said loan; and the State officers having such Bills Receivable, bonds, stocks, or other securities, in their custody, are hereby authorized and required to deliver the same to the Governor, when called on, for this purpose.

In the Scuate House, the eighth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. Scott, Governor.

the demands of the community may require, and for procuring and mak-

No. 3. AN ACT to incorporate the Langley Manufacturing Company, of Edgefield County.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That William C. Langley, Samuel Keyser and Charles D. Cook, and others, and their associates and successors, are hereby made and created a body politic and corporate, under the name and style of "Langley Manufacturing Company," for the purpose of manufacturing cotton yarns and cloths, paper and such other fabrics as

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ing such machinery to carry on said manufactures; and also for the transaction of all such business as may be connected with the above purposes, with a capital of three hundred thousand dollars, with the privilege to increase it to any extent not exceeding six hundred thousand dollars, the consent of a majority of the stockholders being first had and obtained.

A. D. 1868.

Capital.

Powers.

II The said corporation may purchase and hold such real estate as may be required for their purposes, or such as they may deem it for their interest to take in settlement of any debts due to them, and may dispose of the same; and may erect such mills, machine shops and other buildings thereon as may be deemed necessary; and may sue and be sued, have and use a common seal, and make such by-laws for the regulation and government of said corporation, not inconsistent with the Constitution and laws of the United States and of this State, as may be deemed necessary, and shall have generally all the rights, powers and privileges in law incident or appertaining to corporations.

III. That nothing in this Act contained shall ever be so construed as to inhibit or restrain the General Assembly from, at any time, imposing such limitations and restrictions as may be deemed just and proper.

IV. That this Act shall be a public Act, and shall continue of force during the term of fourteen years.

In the Senate House, the fourteenth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. Scott, Governor.

AN ACT TO INCORPORATE THE CHERAW HOOK AND LADDER COMPANY AS A PART OF THE FIRE DEPARTMENT OF THE TOWN OF CHERAW.

No. 4.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Henry Molver, E. M. Wells and W. Lawrence Reid, Jr., and their successors in office, be, and they are hereby, constituted a body corporate and politic, under the name and style of the Cheraw Hook and Ladder Company, with a capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded, in any Court of competent jurisdiction; to have and to use a common seal, and the same to alter at will and pleasure; and with all other rights, privileges and immunities that are now secured by law to like incorporate bodies.

Incorporation

Powers.

11. This Act shall be deemed a public Act, and shall remain in force for the term of fourteen years.

In the Senate House, the fourteenth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

A. D. 1868.

AN ACT TO ORGANIZE THE CIRCUIT COURTS.

1. Be it enacted by the Senate and House of Representatives of the No. 5. State of South Carolina, now met and sitting in General Assembly, and Division of Cir. by the authority of the same, In pursuance of Section 13 of Article IV of the Constitution, the State is hereby divided into eight Circuits, as

First Circuit.

1. The Counties of Charleston and Orangeburg shall constitute the first Circuit.

Second Circuit.

2. The Counties of Edgefield, Barnwell, Colleton and Beaufort shall constitute the second Circuit.

Third Circuit.

3. The Counties of Sumter, Clarendon, Williamsburg, Georgetown and Horry shall constitute the third Circuit.

Fourth Circuit.

4. The Counties of Chesterfield, Marlboro, Marion, Darlington and Kershaw shall constitute the fourth Circuit.

Fifth Circuit.

5. The Counties of Fairfield, Richland, Newberry and Lexington shall constitute the fifth Circuit.

Sixth Circuit.

6. The Counties of Chester, Lancaster, York and Union shall constitute the sixth Circuit.

Seventh Cir-

7. The Counties of Abbeville, Laurens and Spartanburg shall constitute the seventh Circuit.

Bighth (ircuit.

8. The Counties of Greenville, Anderson, Oconee and Pickens shall constitute the eighth Circuit.

Time of hold-ng Circuit

II. The Circuit Courts in the first Circuit shall be held as follows:

First Circuit.

1. The Court of General Sessions at Charleston, for the County of Charleston, on the first Monday of February, June and November; and the Court of Common Pleas at Charleston, for the County of Charleston, on the second Monday of February, June and November.

2. The Court of General Sessions at Orangeburg, for the County of Orangeburg, on the first Monday of January, May and September; and the Court of Common Pleas at Orangeburg, for the County of Orangeburg, on the first Wednesday after the first Monday of January, May

and September.

Second Circuit.

III. The Circuit Courts in the second Circuit shall be held as follows: 1. The Court of General Sessions at Edgefield, for the County of Edgefield, on the first Monday of February, June and October; and the Court of Common Pleas at Edgefield, for the County of Edgefield, on the first Wednesday after the first Monday of February, June and Oc-

2 The Court of General Sessions at Barnwell, for the County of Barnwell, on the fourth Monday of February, June and October; and the Court of Common Pleas at Barnwell, for the County of Barnwell, on the Wednesday after the fourth Monday of February, June and October.

3. The Court of General Sessions at Walterboro, for the County of Colleton, on the first Monday after the fourth Monday in February, June and October; and the Court of Common Pleas at Walterboro, for the County of Colleton, on the Wednesday after the fourth Monday of February, June and October.

4. The Court of General Sessions at Beaufort, for the County of Beaufort, on the second Monday of April, August and December; and the Court of Common Pleas at Beaufort, for the County of Beaufort, on the

third Monday of April, August and December.

IV. The Circuit Courts in the third Circuit shall be held as follows:

1. The Court of General Sessions at Sumter, for the County of Sumter, on the first Monday of January, May and August; and the Court of Common Pleas at Sumter, for the County of Sumter, on the first Wednesday after the first Monday of January, May and August

2. The Court of General Sessions at Manning, for the County of Clarendon, on the third Monday of January, May and August; and the Court of Common Pleas at Manning, for the County of Clarendon, on the first Wednesday after the third Monday of January, May and Au-

gust.

3. The Court of General Sessions at Kingstree, for the County of Williamsburg, on the first Monday of February, June and September; and the Court of Common Pleas at Kingstree, for the County of Williamsburg, on the first Wednesday after the first Monday of February, June and September.

4. The Court of General Sessions at Georgetown, for the County of Georgetown, on the third Monday of February, June and October; and the Court of Common Pleas at Georgetown, for the County of Georgetown, on the first Wednesday after the third Monday of February,

June and October.

5. The Court of General Sessions at Conwayboro, for the County of Horry, on the second Monday of March, July and November; and the Court of Common Pleas at Conwayboro, for the County of Horry, on the first Wednesday after the second Monday of March, July and November.

V. The Circuit Courts in the fourth Circuit shall be held as follows:

1. The Court of General Sessions at thesterfield, for the County of Chesterfield, on the first Monday of January, May and August; and the Court of Common Pleas at Chesterfield, for the County of Chesterfield, on the first Wednesday after the first Monday of January, May and August.

2. The Court of General Sessions at Bennettsville, for the County of Marlboro, on the third Monday of January, May and August; and the Court of Common Pleas at Bennettsville, for the County of Marlboro, on the first Wednesday after the third Monday of January, May and

August.

3. The Court of General Sessions at Marion, for the County of Marion, on the first Monday of February, June and September; and the Court of Common Pleas at Marion, for the County of Marion, on the first Wednes-

day after the first Monday of February June and September.

4. The Court of General Sessions at Darlington, for the County of Darlington, on the third Monday of February, June and October; and the Court of Common Pleas at Darlington, for the County of Darlington, on the first Wednesday after the third Monday of February, June and October.

5. The Court of General Sessions at Camden, for the County of Kershaw, on the second Monday of March, July and November; and the Court of Common Pleas at Camden, for the County of Kershaw, on the first Wednesday after the second Monday of March, July and November.

VI. The Circuit Courts in the fifth Circuit shall be held as follows:

1. The Court of General Sessions at Winnsboro, for the County of Fairfield, on the first Monday of January, May and September; and the Court of Common Pleas at Winnsboro, for the County of Fairfield, on

A. D. 1868,

Third Circuit.

Fourth Circu

Fifth Circu

- the first Wednesday after the first Monday of January, May and September.
 - 2. The Court of General Sessions at Columbia, for the County of Richland, on the first Monday of February, June and October; and the Court of Common Pleas at Columbia, for the County of Richland, on the first Wednesday after the first Monday of February, June and October.
 - 3. The Court of General Sessions at Newberry, for the County of Newberry, on the first Monday of March, July and November; and the Court of Common Pleas at Newberry, for the County of Newberry, on the first Wednesday after the first Monday of March, July and November.
 - 4. The Court of General Sessions at Lexington, for the County of Lexington, on the first Monday of April, August and December; and the Court of Common Pleas at Lexington, for the County of Lexington, on the first Wednesday after the first Monday of April, August and December

Sixth Circuit.

- VII. The Circuit Courts in the sixth Circuit shall be held as follows:
- The Court of General Sessions at Chesterville, for the County of Chester, on the first Monday of January, May and September; and the Court of Common Pleas at Chesterville, for the County of Chester, on the first Wednesday after the first Monday of January, May and September.
- 2. The Court of General Sessions at Lancaster, for the County of Lancaster, on the first Monday of February, June and October; and the Court of Common Pleas at Lancaster, for the County of Lancaster, on the first Wednesday after the first Monday of February, June and October.

3. The Court of General Sessions at Yorkville, for the County of York, on the first Monday of March, July and November; and the Court of Common Pleas at Yorkville, for the County of York, on the first Wednes-

day after the first Monday of March, July and November.

4. The Court of General Sessions at Unionville, for the County of Union, on the first Monday of April, August and December; and the Court of Common Pleas at Unionville, for the County of Union, on the first Wednesday after the first Monday of April, August and December.

VIII. The Circuit Courts in the seventh Circuit shall be held as fol-

cuit. lows:

Seventh

1. The Court of General Sessions at Abbeville, for the County of Abbeville, on the third Monday of January, May and September; and the Court of Common Pleas at Abbeville, for the County of Abbeville, on the first Wednesday after the third Monday of January, May and September.

2. The Court of General Sessions at Laurensville, for the County of Laurens, on the third Monday of February, June and October; and the Court of Common Pleas at Laurensville, for the County of Laurens, on the first Wednesday after the third Monday of February, June and

October.

3. The Court of General Sessions at Spartanburg, for the County of Spartanburg, on the third Monday of March, July and November; and the Court of Common Pleas at Spartanburg, for the County of Spartan-

burg, on the first Monday after the third Monday of March, July and November.

A. D. 1868. Eighth Circuit.

IX. The Circuit Courts in the eighth Circuit shall be held as follows: 1. The Court of General Sessions at Greenville, for the County of Greenville, on the second Monday of January, May and September; and the Court of Common Pleas at Greenville, for the County of Greenville, on the first Wednesday after the second Monday of January, May and September.

2 The Court of General Sessions at Anderson, for the County of Anderson, on the fourth Monday of January, May and September; and the Court of Common Pleas at Anderson, for the County of Anderson, on the first Wednesday after the fourth Monday of January, May and

September

3. The Court of General Sessions at Walhalla, for the County of Oconee, on the second Monday of March. July and November; and the Court of Common Pleas at Walhalla, for the County of Oconee, on the first Wednesday after the second Monday of March, July and Novem

4. The Court of General Sessions at New Pickens, for the County of Pickens, on the fourth Monday of March, July and November; and the Court of Common Pleas at New Pickens, for the County of Pickens, on the first Wednesday after the fourth Monday of March, July and No-

X. The Judges elected and commissioned for the several Circuits shall mon Pleas hold the Courts of Common Pleas and General Sessions for the several General Sessions. Counties in their respective Circuits: Provided, Said Judges shall interchange Circuits, upon their request to and order of the Chief Justice, or upon the order of the Chief Justice without such request, whenever,

in his judgment, it shall be advisable.

XI. Should the business before the Court of General Sessions, at any term, not be completed on the arrival of the day fixed by law for the General Sessions holding of the Court of Common Pleas for said county, the Judge presiding may, in his discretion, adjourn said Court of Common Pleas until the said business of the Court of General Sessions shall have been concluded.

XII. The several Circuit Judges shall have power to hold special sessions within their respective Circuits, at any time in their discretion, or sions. at the discretion of the Chief Justice, of which the Judge presiding shall give such notice as the Chief Justice may direct, or as may, in his The Clerk of judgment, be necessary, should no directions be given. such Court shall, at least fifteen days before the commencement of such special session, cause the time and place for holding the same to be notified, for at least two weeks successively, in one or more of the newspapers published nearest the place where the session is to be holden. All processes, writs and recognizances of every kind, whether respecting juries, witnesses, bail, or otherwise, which relate to the cases to be tried at the said special sessions, shall be considered as belonging to such sessions in the same manner as if they had been issued or taken in reference thereto All business depending for trial at any special session shall, at the close thereof, be considered as of course removed to the next stated term of the Court. Said special sessions shall be held in

use#pd-google http://www.hathitrust.org/access_ A. D. 1568. pursuance of an order which shall be transmitted to the Clerk of the Court, and by him entered on the records of the Court.

XIII. Petit jurors summoned to attend the Court of General Sessions in any county, except the County of Charleston, shall also attend and serve as jurors for the Court of Common Pleas next ensuing in and for said county.

XIV. The Judge of the Circuit shall have power to direct any Circuit Adjournment Court in his Circuit to be adjourned over to a future day, designated in of Circuit Court, a written order to the Clerk of said Court, whenever there is a dangerous and general disease at the place where said Court is usually holden.

XV. The Judges elected and qualified by taking the oath prescribed in the thirtieth Section of the second Article of the Constitution, which outh, to the Judges under the first election, shall be administered by the Governor of the State of South Carolina, who is hereby empowered to administer the same, and to the Judges under any subsequent election by one of the Justices of the Supreme Court, shall forthwith enter upon their duties; and all cases begun and pending in the Courts of Common Pleas and Sessions of the Provisional Government of South Carolina at the expiration thereof shall be, and the same are hereby, transferred to the County Courts having jurisdiction of the same, established by this Act, with all files, records and property pertaining thereto and to said Courts; and all processes, writs and recognizances of every kind, whether respecting juries, witnesses, bail, or otherwise, shall be considered as belonging to the Courts herein established, in the same manner as if they had been issued or taken with reference thereto: Provided, That no cause shall be transferred as aforesaid not cognizable in the Circuit Courts under the Constitution on original process or appeal.

XVI. The Circuit Courts herein established shall be Courts of record, Courts of reand the books of record thereof shall at all times be subject to the in-

spection of any person interested therein.

XVII. The Clerk elected in each county under the provisions of Sec-Clerks of Sec. tion 27 of Article IV of the Constitution shall be Clerk of the Courts of and Com-General Sessions and Common Pleas, and may appoint a deputy, who may perform the duties of Clerk, for whose acts such ('lerk shall be responsible, and a record of whose appointment shall be made in the ('lerk's office; and such appointment may be revoked at the pleasure of the Clerk; and in case no Clerk exists, the Judge shall have authority to appoint a person, who shall perform the duties of Clerk, and said Deputy Clerk, or the one appointed by the Judge, shall be required to give the usual bond before entering upon the duties of the office.

XVIII. All suits in Equity depending in the Courts of Chancery, and Soil- in Equity not finally disposed of, and the property and records relating thereto, on the first day of January, A. D. 1869, shall be transferred to the Courts of Common Pleas in and for their respective counties, and shall be entered upon the dockets of said Courts for the stated term thereof next ensuing, and thereupon shall be heard, tried and determined, with all rights respected and preserved, in the same manner as if originally brought there: Provided, That no cause shall be transferred to the dockets of the Courts as aforesaid not cognizable therein under the Constitution: Provided, further, That all causes depending as aforesaid, and the property and records pertaining thereto, cognizable under the Constitution in the Courts of Probate, shall be transferred to said Courts.

Arch

XIX. All books of record, all files, and all property of whatever kind, of the Courts of Chancery, except as hereinbefore provided, shall, on the first day of January, A. D. 1869, be transferred to the Courts of Common Pleas for the counties having jurisdiction of like causes; and the several Clerks of the Circuit Courts shall receive the same from the outgoing Clerks and Masters of said Courts and receipt therefor, and also enter said receipt upon the records of their respective Courts.

XX. All writs heretofore issued (or which, before the ratification of this Act, shall have been issued) and made returnable to the terms of been the Courts of Common Pleas, as heretofore established by law, shall be returnable to the terms of the said Courts which shall first issue in each

county, respectively, under the provisions of this Act.

XXI. At the term of the Court of Sessions and Common Pleas which shall first ensue in each county after the ratification of this Act, it shall trict count. be the duty of the Judge presiding to call the dockets of the late District Court, and to pass such orders, proposed by the Solicitor on the Sessions, or by the plaintiffs' attorneys in civil causes, as in the judgment of the Court may be proper, to transfer the unfinished business to its proper tribunal for adjudication.

In the Senate House, the twentieth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

F. J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT REGULATING THE TENURE OF CERTAIN OFFICES AND APPOINT-MENTS THERETO, AND FOR OTHER PURPOSES.

Present office

No. 6.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all State, District and municipal officers appointed by the General commanding the late Second Military District, in pursuance of, and under the authority of, the reconstruction laws of Congress, or appointed or elected under the late Provisional Government of South Carolina, and not removed by said General commanding, and whose places have not been filled by election or appointment under the new Constitution, shall continue in office until their several offices are filled by the election or appointment. Utill succession and qualification according to law of the proper State, County and muni-appointment. cipal officers, or until the duties of such officers have been devolved by authority of the General Assembly upon other officers duly elected or appointed and qualified according to law under the new Constitution.

II. It shall be lawful for any County or State officer, elected at the elections of April 14, 15 and 16, or June 2 and 3, 1868, to file the bond re-bends. quired by law, and qualify for the office to which he has been elected, at any time within twenty days from the passage of this Act, and no later; and upon the filing of such bond and qualifying according to law, he shall enter

upon the duties of said office.

III. The elections of April 14, 15 and 16, and of June 2 and 3, 1868,

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tary.

held in conformity with the Acts of Reconstruction, and all orders issued in pursuance thereof, are, and are hereby declared, valid; and all persons elected at such elections are declared to be entitled to the immediate possession of the offices to which they have been elected, upon their qualifying and giving the bonds required by law.

IV. And be it further enacted, That if any person or persons holding any office or offices in the State of South Carolina shall refuse to surrender to the person or persons elected at the elections of April 14, 15 and 16, and June 2 and 3, 1868, or to the person or persons elected at elections hereafter to be held under the laws of South Carolina, not inconsistent with the new Constitution of said State, or appointed by the Governor in pursuance of law, such office or offices, together with all moneys, books, records, papers and property of any kind or character whatever pertaining thereto, whenever such person or persons so elected or appointed shall have qualified and given the bonds required by law, such person or persons so offending shall be deemed guilty of a misdemeanor, and, on conviction ther of, shall be punished by fine and imprisonment—such fine not to be less than one thousand dollars, and such imprisonment not to be less than one year at hard labor in All Acts or parts of Acts inconsistent herewith are the penitentiary.

V. That the provisions of this Act shall not apply to the offices of Judges of the Court of Equity, and of Masters, Registers and Commissioners in Equity, but that the said officers shall, until the first of January, one thousand eight hundred and sixty-nine, continue to discharge the duties and functions of their respective offices for the disposition of causes which are

now pending.

hereby repealed.

In the Senate House, the fifteenth day of August, in year of our Lord onethousand eight hundred and sixty-eight.

A. J. RANSIER, Speaker House of Representatives pro tempore. L. BOOZER, President of the Senate.

Approved: ROBERT K. SCOTT, Governor.

No. 7. AN ACT TO PROVIDE A PRIVATE SECRETARY FOR THE GOVERNOR OF THE STATE.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor is hereby authorized to appoint Private Secretary to the Governor of the State, whose duty it shall be to perform such clerical and other duties as may be required of him by the Governor, in connection with the duties of his office as Governor.

> II. The pay of said Private Secretary is hereby fixed at an annual salary of fifteen hundred dollars.

In the Senate House, the twentieth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MUSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO MAKE APPROPRIATIONS FOR THE PAYMENT OF THE EXPENSES OF THE PRESENT SESSION OF THE LEGISLATURE, AND TO MEET CERTAIN DEFICIENCIES IN THE APPROPRIATION FOR THE FISCAL YEAR COM-MENCING ON FIRST OF OCTOBER, IN THE YEAR OF OUR LORD ONE THOU-SAND EIGHT HUNDRED AND SIXTY SEVEN, MADE BY GENERAL ORDERS No. 139, dated at Charleston, December 3, 1867.

A. D. 1808. No. 8.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the following sums for the specific purposes herein named be, and the same are hereby, appropriated, to be paid out of any money in Treasury not otherwise appropriated, that is to say, for expenses of the present session of the Legislature, seventy thousand dollars (870,000), if so much be necessary: Provided, That the pay certificates of penses. members and officers and the pay certificates or orders for all other expenses shall be signed by the Clerks and countersigned by the presiding officers of the respective Houses to which such officer or member or expense belongs; but that the pay certificates or orders of members, officers and expenses common to the two Houses shall be signed by the Speaker of the House of Representatives and countersigned by the President of the Senate, and that the pay certificates or orders shall be drawn at such times and for such amounts as the Legislature shall determine by joint resolution, and be collected at the Treasury by the Scrucant-at-Arms or such other person as the Speaker of the House and President of the Senate may direct, who shall immediately pay over the same to the persons entitled thereto, under the penalty of the official bond of the Sergeant at Arms.

Appropriation.

Legislativo ex-

II. For payment of contingent expenses of the State for the year one thousand eight hundred and sixty-seven (1867) remaining unpaid, forty thousand (40,000) dollars, if so much be necessary: Provided, That the contingent accounts of Clerks, Sheriffs, Coroners, Magistrates, Constables, and other officers of this State shall be audited by the Comptroller-General, and if found conformable to laws, he shall draw his warrant upon the Treasurer for payment thereof. For dieting and transporting prisoners, twenty thousand (20,000) dollars, if so much be necessary: And provided, further, That no person who may have been removed from office during the existence of the Provisional Government shall receive any portion of any appropriation for pretended services after such removal.

In the Senate House, the twentieth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO REGULATE APPEALS AND WRITS OF ERROR TO THE SUPREME COURT.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from final decrees and judgments in equity in No. 9.

Appeals.

A. D. 18.8.

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a Circuit Court, an appeal to the Supreme Court shall be allowed, where the amount in controversy exceeds one hundred dollars in value; and, upon such appeal, a copy of the bill, answer, depositions, and all other proceedings in the cause, shall be transmitted to and filed in the Supreme Court, and no new evidence shall be received on the hearing of such appeal. An appeal from the order or decree of any Judge in Equity shall in all cases operate as a supersedeas of such order or decree pending the appeal: Provided, That if the opposite party shall have reason to apprehend irreparable injury from the suspension of such order or decree, he or she may, upon giving ten days' notice to the appellant, or to his or her solicitor, move, before the Chief Justice or an Associate Justice, at Chambers or in the Supreme Court, for an order directing the enforcement of the order or decree from which the appeal is taken, according to its terms, and notwithstanding the appeal.

II. Final judgments and decrees in civil and criminal actions in the Circuit Regramina-Courts, brought there by original process, or removed there by appeal from tion of judgments any inferior Court or jurisdiction, may be re-examined and reversed or affirmed in the Supreme Court upon writ of error, whereto shall be annexed and returned therewith, at the day and place therein mentioned, an authentic transcript of the record, an assignment of errors and prayer for reversal. with a citation to the adverse party, signed by a Judge of the Circuit Court or Justice of the Supreme Court, giving to the adverse party at least ten days' notice. There shall be no reversal on such a writ of error for error in ruling any plea in abatement other than a plea to the jurisdiction of the Court, or for any error in fact. Writs of error shall not be granted unless brought within one year after rendering or passing the judgment, or passing the decree complained of. No Justice or Judge shall sign a citation on any writ of error as aforesaid without first having taken good and sufficient security that the plaintiff in error shall prosecute his writ to effect, and answer all damages and costs occasioned by reason of his proceedings in error, if he fail to make his plea good: Provided, That by an agreement of the parties to a cause, which agreement shall be put upon or attached to the record, only so much of the transcript of the record as fully and plainly exhibits the errors assigned shall be transmitted to the Supreme Court, unless the Supreme Court, upon the hearing of the cause, shall order it.

Security.

III. A writ of error as aforesaid shall be a supersedeas and stay execution When operat in cases only where the writ is served by a copy thereof being lodged for the adverse party in the Clerk's office where the record remains, within five days, Sunday exclusive, after rendering the judgment or passing the decree com-Until the expiration of which term of five days execution shall not issue in any case; and whereupon such writ of error, the Supreme Court shall affirm a judgment and decree, they shall adjudge or decree to the respondent in error just damages for his delay, and single or double cost, at their discretion.

indements.

 When a judgment or decree shall be reversed in the Supreme Court, Reversal of the said Court shall proceed to render such judgment or pass such decree as the Circuit Court shall have rendered or passed, except where the reversal is in favor of the plaintiff or petitioner in the original suit, and the damages to be assessed or matter to be decreed are uncertain, in which case the cause shall be remanded for final decision in the Circuit Court, in accordance with the decision of the Supreme Court and their order in the premises. preme Court shall not issue execution in causes that are removed before them

Form of writs

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by writs of error, but shall send a special mandate to the Circuit Court to

award execution thereupon.

V. It shall be the duty of the Clerk of the Supreme Court forthwith to transmit to the Clerks of the several Circuit Courts the form of a writ of of error. error, to be approved by a Justice of the Supreme Court, and it shall be lawful for the Clerks of the said Circuit Courts to issue writs of error agreeable to such form, as nearly as the case may admit, under the seal of said Court, returnable to the Supreme Court; and the Supreme Court shall have power to prescribe all rules for the orderly conduct of its business, and also the business of the Circuit Courts, not inconsistent with the Act of the General Assembly.

VI. The security to be required and taken on the signing of a citation or any writ of error which shall not be a supersedeas and stay execution shall be only to such an amount as, in the judgment of the Justice or Judge taking the same, shall be sufficient to answer all such costs as, upon an affirmance of the judgment or decree, may be adjudged or decreed to the respond-

ent in error.

VII. Whenever any writ of error, appeal or other process in law or equity shall issue from or be brought up to the Supreme Court by the Security from the State not re-State, no bond, obligation or security shall be required from the State by quired. any Judge or Clerk of Court, either to prosecute said suit or to answer in damages or costs.

Security.

In the Senate House, the twentieth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, JR., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO PROVIDE FOR THE RECORDING OF CERTIFICATES OF SALE ISSUED TO PURCHASERS OF LANDS SOLD UNDER DIRECTION AND AUTHOR-ITY OF THE UNITED STATES DIRECT TAX COMMISSIONERS IN BEAUFORT COUNTY, SOUTH CAROLINA.

No. 10.

Whereas a large number of land titles in the form of certificates of sale, issued by the United States Direct Tax Commissioners for South Caro- Certificates o lina, have been created in the County of Beaufort, in said State, during and since the close of the late rebellion;

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the holders of all certificates or titles issued by or under the authority of the United States Direct Tax Commissioners for South Carolina shall be allowed to record the same in the office of the Reg. To be recorded ister of Mesne Conveyance for the county aforesaid; and that when such certificates shall have been so recorded, such recording shall be deemed to title. be a legal notice of title to the land described in the same.

Legal notice of

In the Senate House, the twentieth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT to establish a State Police.

No. 11.

Ch'ef Constable

and deputies

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, There shall be appointed by the Governor, and con firmed by the Senate, an officer to be named and designated the Chief Constable of the State, who shall be commissioned and hold office for Your years. unless sooner removed by the Governor. He shall reside at the capital, and shall appoint in each county one Deputy. Chief Deputy Constable, and as

many Deputy Constables as the Governor way direct

Powers and du-

II. The Chief Constable of the State and the Deputy Chief and Deputy Constable in the counties shall exercise all the common law and statutory powers of Constables, and all authority given to the police or watchmen by the statutes of the State and by the charters and ordinances of incorporated towns and cities concurrently with such officers. Said Chief Constable of the State and Deputy Chief and Deputy Constables in the several counties shall at all times obey and execute the orders of the Governor in relation to the preservation of the public peace and the execution of the laws throughout the State; and it shall be their duty to see that the laws are observed and enforced, and shall especially use their utmost effort and endeavor to repress disorder and prevent crime.

of Chief Consta-

III. The Chief Constable of the State shall be paid out of the Treasury Compensation of the State an annual salary of fifteen hundred dolars, in equal monthly ble and deputies payments; and the Deputy Constables in the counties shall receive a conpensation of three dollars per day when actually on duty. Whenever required to travel on duty, they shall be allowed as compensation the same amount which may be accorded by law to Sheriffs and their deputies accounts of Deputy Chief Constables and Deputy Constables shall be verified by affidavits made and taken before a Justice of the Peace, Notary Public or Clerk of a Court of record, and after approval by the Governor. shall be audited and paid out of the Treasury.

IV. The Governor shall cause to be made and published all needful rules Rules and reg-and regulations for the government of the constabulary force; and the ulatious. Chief Constable of the State shall hold the Deputy Chief Constables and the Deputy Constables in the Counties ready at all times for the prevention

of crime and enforcement of the laws of the State.

V. The Governor shall have authority, whenever in his judgment it shall can be necessary, to arm the constabulary, and in any emergency to assume the nseume control. sole control of the whole or any part of the municipal police in cities and incorporated towns; and to authorize the Chief Constable of the State or any Deputy Chief Constable to command assistance in the execution of process, suppressing riots and in preserving the peace.

> In the Senate House, the twenty-second day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, JR., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

Ties-

AN ACT TO REGULATE THE MANNER OF KEEPING AND DISBURSING FUNDS BY CERTAIN OFFICERS.

No. 12.

State

I Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The Treasurer of the State of South Carolina shall deposit all moneys that shall come to his hands, on account of this State, within three days, Sundays exclusive, after receiving the same, in such bank or banks in the cities of Columbia and Charleston as shall be designated by the Governor, Comptroller-General and Treasurer, or any two of them, and as, in their opinion, shall be secure, and pay the highest rate of interest for The moneys so deposited shall be placed to the account of the Treasurer, and he shall keep a bank book, in which shall be entered his account of deposits in, and moneys drawn from, the banks in which such deposits shall be made.

II. The said banks shall respectively transmit to the Governor and Comptroller-General monthly statements of the moneys which shall be received marks.

and paid by them on account of the Treasury.

III. The Treasurer shall not draw any moneys from such banks, unless by checks, subscribed by him as Treasurer, and countersigned by the Governor; countersigned and no moneys shall be paid by either of the said banks, on account of the Treasury, except upon such checks.

IV. The Treasurer shall exhibit his bank book to the Comptroller-General and Governor, for their examination, on the first Tuesday in every month,

and oftener, if required.

V. The accounts of the Treasurer shall be annually closed on the thirtieth day of October, and shall be examined during the months of November and annivative of ac December, in each year, by a Joint Committee, consisting of one member country of the Schate and two of the House of Representatives, to be appointed by a concurrent resolution of the two Houses of the General Assembly, at the

session previous to said time of examination in each year.

VI. Such Committee shall examine the accounts, the vouchers relating to all moneys received into and paid out of the Treasury during the year ending on the thirtieth of October preceding such examination, and shall cer-mittee. tily and report to the General Assembly at its next session after the said thirtieth day of October the amount of moneys received into the Treasury during such year, the amount of moneys paid out of it during the same period, by virtue of warrants drawn on the Treasury by the Comptroller-General, the amount of moneys received by the Treasurer who shall then be in office at the time of such examination, when he entered upon the execution of the duties of his office, and the balance in the Treasury on the thirtieth day of September preceding such examination.

VII. Such Committee shall also compare the warrants drawn by the Comptroiler-General on the Treasury during the year ending on the said thirtieth day of October preceding with the several laws under which the same shall purport to have been drawn, and shall in like manner certify and report whether the Comptroller-General had power to draw such warrants; and if any shall be found which, in their opinion, he had no power to draw, they shall specify the same in their report, with their reasons for such opinion.

VIII. That a majority of the members of such Committee may perform

all the duties required by law of the Committee.

Comparison.

A. D. 1868. IX. The members of the Committee appointed by this Act shall receive the same compensation from the Treasury for services and travel required Compensation to be performed by this Act as is allowed to members of the General Assembly.

X. All moneys which shall hereafter be paid into the Circuit or Probate Moneys to be Courts of the State, or received by the officers thereof in causes pending deposited. therein, shall be immediately deposited in some incorporated State Bank or National Bank within the Circuit of good credit and standing; or if there be no such bank within the Circuit, then in such bank nearest to the place of holding the Court, in the name and to the credit of the Court.

XI. No money deposited as aforesaid shall be drawn from said banks, ex-How to be cept by order of the Judge of said Courts, respectively, in term or in vacadrawn. tion, to be signed by such Judge, and to be entered and certified of record by the Clerk; and every such order shall state the cause in or on account of which it is drawn: Provided, That money paid into Court to be immediately paid out need not be so deposited, but shall be paid upon order of the Court.

XII. If any Clerk of such Courts, or other officer thereof, having re-Duties of Cerks ceived such moneys as aforesaid, shall refuse or neglect to obey the order of of Courts. such Court for depositing the same, as aforesaid, such Clerk or other officer shall be forthwith proceeded against by attachment for contempt.

> XIII. At each stated session of said Courts, the Clerks thereof shall present an account to said Court of all moneys remaining therein, or subject to the order thereof, stating particularly on account of what cause or causes said moneys are deposited, which account and the vouchers thereof shall be filed in Court.

In the Senate House, the twenty-second day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO AUTHORIZE A LOAN TO REDEEM THE OBLIGATIONS KNOWN AS No. 13. THE "BILLS RECEIVABLE OF THE STATE OF SOUTH CAROLINA."

I. Be it enacted by the Senate and House of Representatives of the Louis author-State of South Carolina, now met and sitting in General Assembly, and Ized. by the authority of the same, That the Governor of the State be, and he is hereby, authorized to borrow, on the credit of the State of South Carolina, on coupon bonds, within twelve months from the passage of this Act, a sum not exceeding five hundred thousand dollars, or as much thereof as he may deem necessary, to redeem the Bills Receivable of the Interest. State of South Carolina; said bonds to bear interest at six per cent., payable semi-annually, and redeemable within twenty years from the passage of this Act.

II. That the bonds and coupons of the said loan shall be paid in

the city of New York. Payable in

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III. That the bonds issued under the provisions of this Act shall be signed by the Governor and countersigned by the State Treasurer; and all such obligations shall be under the seal of the State. The coupons shall be signed by the State Treasurer, or executed in such manner as may be designated by the Governor.

A. D 1:68. Signatures.

IV. That the faith, credit and funds of the State of South Carolina are hereby solemnly pledged for the punctual payment of the interest Pledges for pay-

and redemption of the principal of the loan authorized by this Act.

V. That the bonds authorized by this Act shall be sold at the highest How so'd. market price, by the financial agent of the State in the city of New York, and not less than for a sum to be fixed by the Governor, Attorney-General and Treasurer, who shall fix the time of redemption and redeem said Bills Receivable at the office of the State Treasurer; and they are further authorized to pay such sums of money as may be necessary to effect the purposes of this Act, out of any funds of the State not otherwise appropriated.

VI. That an annual tax, in addition to all other taxes, shall be levied Tax to be lev upon the property of the State, sufficient to pay the interest on the loan led. hereinbefore authorized at the times when such interest shall fall due.

In the Senate House, the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO AUTHORIZE A STATE LOAN TO PAY INTEREST ON THE PUBLIC No. 14. DEBT.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor of the State be, and he ize! is hereby, authorized to borrow, on the credit of the State of South Carolina, on coupon bonds, within twelve months from the passage of this Act, a sum not exceeding one million dollars, or as much thereof as he may deem necessary, to pay interest on the public debt; the first payment of said interest is to be made on or before the first day of July, A. D. 1869; said bonds to bear interest at six per cent., payable semi-annually, and redeemable within twenty years from the passage of this Act.

Loan autho

II. That the bonds and the coupons of said loan shall be paid in the city of New York.

Wh-re payab

III. That the bonds issued under the provisions of this Act shall be

Signed by.

Interest.

signed by the Governor and countersigned by the State Treasurer; and all such obligations shall be under the seal of the State. The coupons shall be signed by the State Treasurer, or executed in such manner as may be designated by the Governor.

IV. That the faith, credit and funds of the State of South Carolina

Tax levied.

5 ands.

are hereby solemnly pledged for the punctual payment of the interest and

redemption of the principal of the loan authorized by this Act.

V. That the bonds authorized by this Act shall be sold at the highest limited be sold market price, and for not less than a sum to be fixed by the Governor, Attorney-General and the Treasurer, who are hereby authorized to appoint, under a commission signed by them, some responsible bank or banker in the city of New York, to act as financial agent of the State, to be subject to their direction and control; and they are further authorized to pay such sums of money as may be necessary to effect the purposes of this Act out of any funds of the State not otherwise appropriated: Provided, That the expenses of such financial agency shall not exceed the rates paid by other States for like services.

VI. That an annual tax, in addition to all other taxes, shall be levied upon the property of the State, sufficient to pay the interest on the loan hereinbefore authorized, at the times when such interest shall fall due.

In the Senate House, the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

No. 15. AN ACT to FIX THE AMOUNTS OF OFFICIAL BONDS OF CERTAIN COUNTY OFFICERS.

I. Be it enacted by the Senate and House of Representatives of the "State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the following public officers of the counties in this State, before receiving their commissions, shall enter into bonds to be executed by said officers and any number of sureties, not exceeding twelve nor less than two, to be approved by a majority of the Board of County Commissioners, that is to say: Of the Probate Judge of Charleston County, ten thousand dollars; of the Probate Judge of each of the other counties, five thousand dollars; of the Coroner of Charleston County, ten thousand dollars; of the Coroner of each of the other counties, two thousand dollars; of the Clerk of the Court of Common Pleas for Charleston County, twenty thousand dollars; of the Clerk of the Court of Common Pleas for each of the other counties, ten thousand dollars; of the Sheriff of Charleston County, twenty-five thousand dollars; and of the Sheriff of each of the other counties, ten thousand dollars; of the County Treasurer of Charleston County, twenty thousand dollars, and of the County Treasurers of each of the other counties, ten thousand dollars.

II. That the bonds of all other public officers of the counties shall be executed for the same amounts as now required by law; and all Acts or parts of Acts inconsistent with the provisions of this Act be, and the same are hereby, repealed.

In the Senate House, the ninth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approv d: ROBERT K. SCOTT, Governor.

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AN ACT TO DETERMINE AND PERPETUATE THE HOMESTEAD.

A. D. 1868.

No. 16.

The homestead,

Appraisera

Personal prop-

I. Be it enacted by the Senate and House of Representatives of the State South Carolina, now met and sitting in General Assembly, and by the authority of the same, Whenever the real estate of any head of a family residing in this State shall be levied upon by virtue of any mesne or final process issued from any Court upon any judgment obtained upon any right of action, whether arising previous or subsequent to the ratification of the Constitution of the State of South Carolina, if the same be the family home. stead of such person, the Sheriff or other officer executing said process shall cause a homestead, such as said person may select, not to exceed the value of one thousand dollars, to be set off to said person in the manner following, to wit: He shall cause three appraisers to be appointed, one to be named by the creditor, one by the debtor, and one by himself. who shall be discreet and disinterested men, resident in the county, and shall be sworn by a Justice of the Peace to impartially appraise and set off, by metes and bounds, a homestead of the estate of the debtor, such as he may select, not to exceed the value of one thousand dollars; and the said appraisers shall proceed accordingly to set out the homestead, and the set-off and assignment so made by the appraisers shall be returned by the officer, along with said process, for record in Court; and if no complaint shall be made by either party, no further proceedings shall be had against the homestead, but the residue of the lands and tenements of the head of the family, if any more or other he shall have, shall be liable to attachment, levy and sale: Provided, That upon good cause shown, the Court out of which the process issued may order a re-appraisement and re-assignment of the homestead, ment. either by the same appraisers or others appointed by the Court: And provided, further. That should the creditors or debtor neglect or refuse, after due notice from the officer executing the process, to nominate an appraiser, then said officer shall appoint the same.

II. Whenever the personal property of the head of any family residing in this State is taken or attached by virtue of any mesne or final process erty. issued from any Court, and said person shall claim the said property or any part thereof as exempt from attachment on account of the same being the annual product of his or her homestead, or us subject to exemption under the Constitution, and the creditor and debtor do not agree about the same, the officer executing said process shall cause the same to be ascertained, and all exempted property set out by appraisers appointed and sworn for the purpose, we provided in the preceding Section for setting out the homestead, subject to like limitations and provisions, and the residue, if any, shall be sold, which proceeding shall be stated in the officer's return of such

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III. The exemptions of Sections 1 and 2 of this Act shall not extend to an attachment, levy or sale on any mesne or final process issued to secure or enforce the payment of taxes or obligations contracted for the purchase of said homestead, or obligatious contracted for the erection of improvements thereon: Provided, The Court or authority issuing said process shall certify thereon that the same is issued for some one or more, and no other, of said purposes: Provided, further, The yearly product of said homestead shall be subject to attachment, levy and sale to secure or enforce the payment of obligations contracted in the production of the same; but the Court issuing

Exemptions.

A. D. 1868.

the process therefor shall certify thereon that the same is issued for said

purpose, and no other.

Widows and minors.

IV. The estate or right of homestead of the head of any family existing at his death shall continue for the benefit of his widow and minor children, and be held and enjoyed by them until the youngest child is twenty-one years of age, and until the marriage or death of the widow, and be limited to that period; but all the right, title and interest of the deceased in the premises in which such estate or right exists, except the estate of homestead thus continued, shall be subject to the laws relating to devise, descent, dower and sale, for payment of debts against the estate of the deceased.

V. When a widow or minor children are entitled to an estate or right of homestead as provided in the preceding Section, the same may be set off to the parties entitled by the Judge of the Probate Court, who shall appoint three disinterested persons resident in the county, who, having been duly sworn, shall proceed to appraise and set out, by metes and bounds, such homestead, and make return thereof to him. If no complaint shall be made against said appraisal and setting out of the homestead within twenty days thereafter, by any party interested therein, or any good cause appear to the contrary, the same shall be confirmed by the Judge and ordered ac-

cordingly.

Appraisers.

VI. Appraisers appointed to set out the homestead under this Act shall receive as compensation two dollars per day each for such services, and the same shall be paid by the officer executing the process out of the property of the debtor; or in case of the homestead set out to a widow or minor children, out of the estate of the deceased by the executor or administrator thereof.

In the Senate House, the ninth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

I. Be it enacted by the Senate and House of Representatives of the

No. 17. AN ACT to close the operations of the Bank of the State of South Carolina.

State of South Carolina, now met and sitting in General Assembly, and
Governor to by the authority of the same, That the Governor of the State is hereby
take and dispose authorized and required, for and on behalf of the State, to take possession of all the real and personal estate, assets, choses in action, and
books of accounts of the corporation known as "The President and Directors of the Bank of the State of South Carolina," in whose hands
soever found, and sell at public auction, at such times, and upon such
terms as he shall deem most advantageous to the State, all the real and
personal estate, stocks, bonds of the corporation, and other assets of the
Attorney-Gen-said corporation, and the personal bonds, notes and bills of exchange

owned by said corporation; and all debts and choses in action due the said corporation, he shall place in the hands of the Attorney-General of

the State, with instructions to institute, in the name of the said corporation, legal proceedings to collect the amounts so due as speedily as pos-

use#pd-google Carolina on 2024-09-23 19:43 GMT / http://www.hathitrust.org/access sible; and the proceeds of said sales, and of all collections made by the Attorney-General, shall be deposited in the Treasury of the State, subject to the order of the Governor, who shall keep a distinct account ited. thereof, separate and distinct from the other accounts of the State, and shall report the same to the next succeeding session of the Legislature: Provided, always, That suits shall not be instituted upon any debts which, in the opinion of the Governor and Attorney-General, are valueless.

A. D. 1868.

Proceeds depos-

II. That all bills issued by said corporation prior to the twentieth day of December, 1860, be funded; and on the surrender and delivery of said bills to the Treasurer of the State, bonds of the State, payable funded. within twenty years after date, with interest at six per cent per annum, payable semi-annually at the agency of the State in the city of New York, shall be issued to the owner of said bills, in payment and redemption of the amount of said bills, and interest thereon, from the time when such bills were presented for payment, at six per cent. per annum: Provided, That said bills shall be presented to the Treasurer before January 1, 1869. And the Governor of the State is hereby authorized and required to execute and deliver said bonds, to be signed by him and countersigned by the Treasurer; and to the punctual payment of the principal and the interest of said bonds the credit and faith of the State is hereby pledged: Provided, also, That said bonds shall not be presented to the bill-holders and executed before January 1, 1869.

III. That the eleventh Section of the Act of the General Assembly of the State, ratified the 21st day of December, 1865, entitled "An Act to raise supplies for the year commencing in October, 1865," be, and the same is hereby, repealed.

Repeal of Acts.

IV. That the sixteenth Section of the Act ratified the 19th day of December, 1812, entitled "An Act to establish a Bank on behalf of and for the benefit of the State," and all Acts and parts of Acts which render the bills of said corporation receivable in payment of taxes and all other debts due the State be, and the same are hereby, repealed.

V. The Governor of the State of South Carolina is hereby authorized to pay all expenses necessary to carry into effect the provisions of this Act out of any funds in the State Treasury not otherwise appropriated.

Expenses.

VI. All bonds or stocks authorized in this Act, or hereafter to be authorized, shall be of uniform character in design; and to secure this design of bonds. result, the financial agent in New York shall make all necessary arrangements for the same.

In the Senate House, the fifteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO PROVIDE FOR THE TEMPORARY ORGANIZATION OF THE EDU-No. 18. CATIONAL DEPARTMENT OF THE STATE.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the auA D 1868.

Rand

thority of the same, the State Superintendent of Education, elected at the election held on the 14th, 15th and 16th days of April, 1868, shall con-Superintendent tinue in office for the term of four years. Before entering upon the duties of his office he shall give a bond in the sum of five thousand dollars, to the acceptance of the Governor of the State, conditioned that he will truly account for and apply all moneys or other property which may come into his hands in his official capacity for the benefit of common schools, and that he will faithfully perform the duties enjoined upon him according to law.

Compensation shall receive as compensation for his services the sum of two thousand and five hundred dollars per annum, payable as the salaries of all other State officers are paid. He shall also receive his actual cost of transportation when traveling upon public business.

Office

II. The State Superintendent of Education shall open an office, to be provided at the seat of Government, in which the books and papers of his department shall be kept, and in which he shall give attendance when not absent on public business. All the records, books and papers of his department shall be kept with accuracy and system, and shall be open at all times to the inspection of the Governor of the State, or of such other persons as the Governor may delegate to perform that duty.

III. Immediately after this Act becomes a law, it shall be the duty of the School Commis-State Superintendent of Education to provide, through the School Commissioner of each county for the enumeration of all the unmarried youth of the State, between the ages of five and eighteen years, classifying them as colored and white, male and female, and he shall report the same through the Governor of the State to the General Assembly at its next regular session.

> IV. The School Commissioner of each county shall, as soon as this Act becomes a law, proceed, under the direction of the State Superintendent of Education, to make an enumeration of the youth of his county as provided for in Section third of this Act; and if before said enumeration is completed his county shall have been divided into townships by Act of the General Assembly, it shall be his duty to state in his report to the State Superintendent of Education the school population of each township as well as the total number of youth in his county.

V. The School Commissioner for Charleston County shall, in making his Charleston return to the State Superintendent of Education, give the school population County. of each ward in the city of Charleston.

VI. The School Commissioner for each county shall report to the State Commissioner's Superintendent of Education the number of public schools existing in his county, the number of pupils attending such schools, classified as colored and white, male and female. He will also state by whom said schools are supported, the number of school-houses, their condition, and by whom they are The County School Commissioner shall make this report at the same time he makes his return to the State Superintendent of Education of the enumeration required in Section fourth of this Act. It shall be the duty of the State Superintendent of Education to consolidate the reports received from the County School Commissioners, and to forward them to the General Assembly at its next regular session.

VII. The School Commissioner of each county shall receive as compensa-Compensation tion for his services a per diem of four dollars for each day actually and necessarily employed in the performance of the duties prescribed in this Act, http://www.hathitrust.org/access_

count of any County School Commissioner for services rendered shall be paid until said Commissioner shall have certified, under oath or affirmation, that said account is just, and that it was incurred in the actual performance of his duties as School Commissioner.

A. D. 1* 5.

VIII. The Governor of the State is hereby authorized to employ such assistance as may be needed in the several counties in making the aforesaid enumeration: Provided, That no person so employed shall receive more than two and one-half dollars per day for his services: And provided, further, That no account of any person so employed shall be paid unless its correctness is certified under oath or affirmation by the School Commissioner of the county in which such person is employed.

IX. The State Superintendent of Education and the County School Commissioners shall, in addition to the duties prescribed in this Act, perform such other duties as may hereafter be prescribed by law.

In the Senate House, the fifteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO REMOVE THE COUNTY SEAT OF BEAUFORT COUNTY FROM GILLI-SONVILLE TO THE TOWN OF BEAUFORT.

No. 19.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That in pursuance of a resolution passed by the late Constitutional Convention, that the court house and all the public records of Beaufort County be removed from Gillisonville to the town of Beaufort, and that the said town of Beaufort shall hereafter be the county seat of Beaufort County.

II. That Henry Stuart, H. G. Judd and D. L. Thompson be, and are hereby, appointed a Commission to superintend the removal of the said records and county seat, and to obtain a building or buildings in the town of Beaufort; and the said Commission shall enter upon said duty as soon as the citizens of the town of Beaufort shall give good and sufficient security that they will bear all the expense of such removal, and that they will furnish good and sufficient building or buildings for county purposes; and the said Commission shall report their action to the next session of this General Assembly.

In the Senate House, the fifteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. Scott, Governor.

A. D. 1868, No. 20. AN ACT TO AUTHORIZE ADDITIONAL AID TO THE BLUE RIDGE RAILROAD COMPANY IN SOUTH CAROLINA.

Act of 1854.

Whereas, the General Assembly of the State of South Carolina, by an Act passed the twenty-first day of December in the year of our Lord one thousand eight hundred and fifty-four, and entitled "An Act to authorize aid to the Blue Ridge Railroad Company in South Carolina," provided that the faith and funds of the State of South Carolina be, and the same are hereby, pledged to secure the punctual payment of any contracts which shall be made for borrowing money by the Blue Ridge Railroad Company in South Carolina, from any person or persons, company or companies, corporation or corporations, to any amount not exceeding one million of dollars, either in the United States or Europe; and when such contracts shall be made by bond or bonds signed by the President of the company, under its seal, and countersigned by the Sec retary or Treasurer thereof, it shall be the duty of the Comptroller-General to endorse thereon that the faith and funds of the State are pledged to the faithful performance of said contract or contracts, as it respects the punctual payment both of the principal and interest, according to the terms of the said contract or contracts: Provided, That certain conditions particularly recited in Section seven of said Act be first executed, and the said Blue Ridge Railroad Company in South Carolina secured the said endorsement by a mortgage of all their property in the States of South Carolina, Georgia, North Carolina and Tennessee, duly executed and recorded; and whereas the Comptroller-General of the State has not endorsed any of the bonds issued by the said Blue Ridge Railroad Company in South Carolina, under the authority of said Act; and whereas the conditions imposed upon said endorsement by said Section seven have become impossible and injudicious, while the necessity of the completion of said road has become more urgent in the interest of the State: therefore. I. Be it enacted by the Senate and House of Representatives of the

State of South Carolina, now met and sitting in General Assembly and by the authority of the same, Without reference to the said provisos and conditions, whenever any contract or contracts may be made by the President of the said company, under its seal, and as provided by said Act, and not exceeding one million of dollars, it shall be the duty of Comptro 11erthe Comptroller-General to endorse thereon that the faith and funds of the State are pledged to the faithful performance of the said contract or contracts, as respects the punctual payment both of the principal and interest, according to the terms of said contract or contracts: Provided, That so much of said issue as may be necessary, not exceeding three hundred thousand dollars, shall be applied to the redemption of the present bonded debt of the said company.

Guarantees.

II. That the faith and the funds of the State of South Carolina be, and the same are hereby, pledged to secure the punctual payment of any contracts which shall be made by the Blue Ridge Railroad Company in South Carolina, from any person or persons, corporation or corporations, to an additional amount, not exceeding three millions of dollars, either in the United States or Europe; and when such contracts shall be made by bond or bonds, signed by the President of the said company, under its seal, and countersigned by the Secretary or Treasurer thereof, it shall

be the duty of the Comptroller-General of this State to endorse thereon, that the faith and funds of the State of South Carolina are pledged to the faithful performance of the said contract or contracts, as it respects the punctual payment both of the principal and interest, according to the terms of said contract or contracts: Provided, That the interest made payable thereon shall not exceed seven per cent. per annum, in quarterly or half yearly payments. And that as soon as the Comptroller-General shall have made any such endorsement on any such contract, the whole estate, property and funds in the States of South Carolina, Georgia, North Carolina and Tennessee which the said company may then possess, or shall afterwards acquire, shall thenceforth stand pledged and mortgaged to the State, without any further act or deed on the part of the company, for the faithful and punctual performance, on the part of said company, of such contract, in priority and preference of any other debt which the said company may thereafter create or incur: And further provided, That the said bonds or any part thereof shall not be used unless upon the express condition that upon application to the Congress of the United States, or to private capitalists, the amount of three millions of dollars in currency, or so much of that sum as may be necessary, shall be furnished in exchange or upon the security of said bonds.

III. The said company shall have the right to increase the Board of Directors to fifteen members, of which Board the Governor of the State shall be ex officio a member; that there shall be an additional officer to be known as Vice-President, whose duties and salary shall be prescribed by the Board; and that in all future meetings of the stockholders of said company, the Governor of the State is hereby authorized to represent he stock of the State, either in person or by the appointment of proxies

The Governor of the State is hereby authorized to advance to the said company twenty thousand dollars from the Treasury of the State to company. repair and keep in working condition the said road, if such amount should be necessary in his opinion.

V. Be it further enacted, That the provisions of the charter of the Blue Ridge Railroad Company and all Acts or parts of Acts inconsistent with this Act be, and the same are hereby, repealed.

In the Senate House, the fifteenth day of September, in the year of our Lord one housand eight hundred and sixty-eight.

I. BOOZER, President of the Senate.

FRANKLIN J. MO-ES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO PUNISH PERSONS WHO MAY ATTEMPT TO HOLD OFFICE BY AU-THORITY OF THE LATE PROVISIONAL GOVERNMENT.

No. 21.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That no person elected or appointed to any office under or by authority of the late Provisional Government of A. D. 1868.

Provises

Di ectors

Vice-President

A. D. 1868.

this State, and who has been removed by military authority, or who has been superseded before the expiration of the term of his office by per-Officers super sons duly elected by authority of, or in consequence of, the Reconstruction Acts, or under the new Constitution of this State, shall hold, or attempt to hold, the office, and exercise the functions thereof, from which he was removed, or in which he was superseded.

Pena'tv.

II. A violation of the foregoing Section of this Act shall, upon conviction thereof, subject the offender to a fine of not less than one thousand dollars, and imprisonment at hard labor in the penitentiary for not less than one year.

To school fund.

III. The money accruing from fines for violation of this Act shall be added to the school fund of the State.

Attempt to draw salary.

IV. If any person prohibited from holding or attempting to hold office, as prescribed in Section one of this Act, shall attempt to draw a salary or receive fees by virtue of his claim to the office which he is therein prohibited to hold, such person so offending shall be subject to the penalties prescribed in Section two of this Act.

V. All Acts or parts of Acts conflicting with the provisions of this

Act are hereby declared of no effect.

In the Senate House, the fifteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

No. 22. AN ACT PROVIDING FOR THE ASSESSMENT AND TAXATION OF PROPERTY.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all real and personal property in this Property taxa- State, and personal property of residents of this State, which may be kept or used temporarily out of the State, with the intention of bringing the same into the State, or which has been sent out of the State for sale and not yet sold; all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of parties resident in this State, shall be subject to taxation. II. The phrase "real property," as used in this Act, shall be held to

Real property, mean and include not only land, city, town and village lots, but all things therein contained, and all structures and other things so annexed or attached thereto, as to pass to the vendee by the conveyance of the land or lot. The phrase "personal property," as used in this Act, shall Personal prop- land or lot. be held to mean and include all things, other than real estate, which have any pecuniary value, and moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise. The term "moneys" or "money," as used in this Act, shall be held to mean and include gold, silver, and other coin, bank bills and other bills or notes, authorized to

> be circulated as money, whether in possession or on deposit, subject to the draft of the depositor or person having the beneficial interest therein

Money.

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The term "credits," as used in this Act, shall be held to mean the remainder due, or to become due, to a party after deducting from the amount of all legal debts, claims and demands in his favor, the amount of all legal debts and demands against him, whether such demands be payable in money, labor or other valuable things. But in ascertaining such remainder, no deduction shall be made of any obligation to any mutual insurance company, given for insurance, nor of any subscription to the capital stock of any joint stock company, nor of any taxes assessed against the party, nor of any subscription to any religious, scientific, literary or charitable purpose, nor of any acknowledgment of a liability not founded on a legal and valuable consideration, nor any more of any joint liability, with others than the party honestly believes he will be compelled to pay, nor any contingent liability, nor of any acknowledgment of debt or liability made for the purpose of diminishing the amount of credit to be returned for taxation. The phrase "investments in bonds," as used in this Act, shall be held to mean all invest- bonds. ments of money or means in bonds of whatsoever kind, whether issued by the Government of the United States, or of this or any other State or Territory of the United States, or any foreign Government, or any county, city, town, township or other municipality, or by any corporation or company of this or any other State or country. The phrase "investments in stocks," as used in this Act, shall be held to mean and include all investments of money or means in the evidences of indebtedness, other than bonds or bills designed to circulate as money, issued by any government or municipality, and shares of the capital of any corporation, company or association, and every interest in any such shares or portion thereof; also, all interests or shares in ships, boats or other vessels, used or designed to be used exclusively or partially in navigating the waters within or bordering on this State, whether such ship, boat or vessel be within the jurisdiction of this State or not, and whether such vessel be registered or licensed at any Collector's office in this State or The word "oath," as used in this Act, shall be held to mean and include an affirmation duly made. The words "person" and "party," and other word or words importing the singular number, as used in this Act, shall be held to include firms, companies, associations and corporations; and all words in the plural number shall apply to single individuals, in all cases in which the spirit and intent of this Act requires it. All words in this Act importing the masculine gender shall apply to females also; and all words in this Act importing the present tense shall apply to the future also.

A. D. 1868. Credits.

In stecks

Persons.

III. The following property shall be exempt from taxation, to-wit:

1st. All public schools and the grounds, not exceeding in any case three acres, upon which such buildings are or may be erected.

2d. All houses used exclusively for public worship, the books and furniture therein, and the grounds upon which the same are or may be erected, not exceeding in any case two acres.

3d. All incorporated public colleges, academies, and institutions of Institutions of learning, with the funds provided for their support, and the grounds and learning. buildings owned by them, and not used with a view to pecuniary profit; but this provision shall not extend to leasehold estates held by others under the authority of any college or other institution of learning.

Exemptions. Public schools

stitutions.

Bonds.

Rents.

Aunuities.

Pensions.

Shares.

Subsistence.

Fire engines.

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A. D. 1565. 4th. All real and personal property, the rents, issues, incomes and profits of which have been or shall be given to any city, town, village, Endowments. school district or sub-district in this State, exclusively for the endowment or support of public schools therein, so long as such property or the rents, issues, income or profits thereof shall be used and applied exclusively for the support of free education in said schools, by such city, town, village, district or sub-district.

Cometerie . 5th. All grave-yards or cemeteries, except such as are held with a view to profit or speculation in the sale thereof.

United States 6th. All property owned exclusively by the United States or this property. State.

7th. All buildings owned by counties and used exclusively as court Court houses, houses, jails, or public offices, with the grounds on which such buildings are or may be erected, not exceeding ten acres in any county. Po a houses, 8th. All lands, houses, fixtures and property owned by any county or

city, and used exclusively for the support of the poor. Charitable in-9th. All property belonging to institutions of purely public charity, and used exclusively for the maintenance and support of such institu-

> tions. 10th. All fire engines and other implements used in the extinguishment of fires, with the buildings and grounds used exclusively for the keeping and preservation thereof, when owned by any city, town or vil-

lage, or any fire company organized therein. 11th. All public squares or grounds and market houses owned by any Public grounds city, village or town, and used exclusively for public purposes.

12th. All city, village and township halls owned and used exclusively Public halls. for public purposes, by any city, village or township.

13th. All water works to supply water for the use of a town or city, Water works. the machinery and fixtures connected therewith, and the grounds occupied thereby, when owned by any city or village.

14th. All bonds of this State which by the terms of the Act under which they are or may be issued are or may be exempted from taxation. 15th. All bonds and stocks of the United States which are not au-

thorized by the laws of the United States to be taxed under State authority.

16th. All rents accruing from real estate which shall not become due within two months after the first day of September of the year in which taxes are to be assessed thereon.

17th. All of any annuity not payable on or before November first of the year for which taxes are to be assessed thereon.

18th. All pensions payable to any person by the United States or any State of the United States.

19th. All shares of the capital stock of any company or corporation, which is required to list its capital and property for taxation in this State.

20th. All the wearing apparel of the person required to make return, Wearing appaand his family.

21st. Articles actually provided for the present subsistence of the person or his family to the value of one hundred dollars.

IV. Every person of full age and of sound mind, except married women, Personal propshall annually list for taxation the following personal property, to-wit:

1st. All the tangible personal property in the State owned or controlled In the State. by him.

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2d. All the tangible personal property owned by him or other residents of South Carolina and under his control which may be temporarily out of the State, but is intended to be brought into the State.

3d. All tangible personal property owned or controlled by him which state may have been sent out of the State for sale and not yet sold; and,

4th. All the moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise owned or controlled by him, whether in or out of its Ac. this State. The property of every ward shall be listed by his guardian; of every minor child having no other guardian, by the father, if living; if the father be dead, by the mother, if living; if the mother be dead or married, by the person having it in charge; of the wife, by the husband, if living and same, and the parties are residing together; it the husband be dead, or is meane, or is not living with his wife, by the wife; of every person for whose benefit property is held in trust, by the trustee; of every deceased person, by the executor or administrator; of those whose property or assets are in the hands of receivers, by such receivers; of every firm, company, body politic or corporate, by the President or principal accounting officer, partner or agent thereof; of all persons in the hands or custody of any public officer or appointee of a Court, by such officer or appointee; of those absent or unknown, by their agent or the person having it in charge; of lessees of real property, by such lessees.

V. All persons required by this Act to list property for others shall list separation it separately from their own, and in the name of the owner thereof; but shall be per-ougly responsible for the taxes thereon for the year in which they list it, and may retain so much thereof, or the proceeds of the sale

thereof, in their own hands as will be sufficient to pay such taxes

VI. All horses, neat cattle, mules, asses, sheep, hogs, wagons, carts and Horses, other vehicles used in any business, furniture and supplies used in hotels, restaurants, and other houses of public resort; all personal property used in, or in connection with, storehouses, manufactories, warehouses or other places of business; all personal property on farms; all merchants' and manufacturers' stock and capital, shall be returned for taxation and taxed in the township, city, village and town in which it is situated; all bankers' capital and personal assets pertaining to their banking business, in the city, township, town and village in which the banking house is located; all shares of stock in incorporated banks located in this State, in the city, township, town and village where the bank is located; all property of deceased persons shall be returned for taxation at the residence of the executor, or administrator, if in the county where administration may be legally grantable; but it the executor or administrator reside out of such county, at the county seat of such county, until distribution thereof and payment may be made to the parties entitled thereto; and all other personal property shall be returned for taxation and taxed at the place where the owner thereof shall reside at the time of listing the same, if the owner reside in this State; if not, at the residence of the person having it in charge; and all real estate shall be taxed in the county, city, ward and township where it is located.

VII. Every per-on required by this Act to list property shall, annually, between the first day of September and the twentieth day of October, make sonal property. out and deliver to the Assessor of the township or ward in which the property is, by this Act, to be returned for taxation, a statement verified by

Capital stocks

Ex ecutors, &c.

A. D. 1868.

Merchants.

his oath of all the personal property possessed by him or under his control on the first day of September of that year, either as owner, agent, parent, husband, guardian, executor, administrator, trustee, receiver, officer, partner, factor or holder, with the value thereof on said first day of September at the place of return, estimated according to the rules prescribed by this Act, which statement shall set forth:

1st. The number of horses and their value.

2d. The number of neat cattle and their value.

3d. The number of mules and asses and their value.

4th. The number of sheep, goats and their value.

5th. The number of hogs and their value.

6th. The value of gold and silver plate and number of gold and silver watches and their value.

7th. The number of piano fortes, melodeons, cabinet organs and their value.

8th. The number of pleasure carriages and their value.

9th. The number and value of dogs.

10th. The value of goods, merchandize, moneys and credit pertaining to his business as a merchant.

11th. The value of materials received, used or provided to be used in his business as a manafacturer.

12th. The value of all machinery, engines, tools, fixtures and implements used or provided for his use in his business as a manufacturer, and of all manufactured articles on hand one year or more.

13th. The value of moneys, including bank bills and circulating notes.

14th. The value of all credits.

15th. The value of investments in the stocks of any company or corporation out of this State, except National Banks.

16th. The value of all investments in bonds, except bonds of the United States and this State expressly exempted from taxation.

17th. The annual value of all leases except permanent leases.

18th. The value of all other property.

VIII. Any person who shall, at any place in this State, be engaged in the business of buying and selling personal property, or in selling personal property consigned to him from any place out of this State, or property not the product of this State, consigned to him from any place within this State, shall be held to be a merchant; and at the same time he is required to list his other personal property, shall deliver to the Assessor of the township or ward in which his place of business is situate a statement, under his oath, of the average mouthly value of the personal property, moneys and credits pertaining to his mercantile business; to ascertain which, he shall set down the value on hand on the first day of September of the preceding year, or other time of commencing business during the year, add thereto all purchases, when made at cost, ascertain the average value on hand for the Monthly, sales, month, deduct the average amount of sales for the month, at cost, and the remainder shall be the average on hand for that mouth; and, in like manner, ascertain the average value for each month down to the first day of September of the year in which the return is to be made, add together such monthly values, divide the aggregate by the number of months he has been in business during the preceding year as aforesaid, and to the quotient add the moneys and credits on hand the first day of September of the year in

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which the return is made, and the product of this last addition shall be the sum upon which he shall pay taxes for the year in which the return is made.

IX. Every person engaged in making, fabricating or changing things into new forms for use, or in refining, rectifying or combining different materials for use, shall be held to be a manufacturer, and shall, at the same time he is required to list his other property, make and deliver to the Assessor of the township or ward in which his place of business is situate a statement of the average value, estimated as provided in the preceding Section, of all articles purchased, received or otherwise held for the purpose of being used by him in his business at any time during the year preceding the first day of September of the year in which the return is made; and he shall also list at their full value all machinery, tools, implements, fixtures and engines used or purchased for use in his business, (except such as have been appraised for taxation, as part of the realty,) together with all manu factured articles which have been on hand and remained unsold for one year or more prior to the first day of September of the year in which the return is made; also, all the moneys and credits pertaining to soid business on hand on said first day of September: Provided, That all materials provided for use in said business shall be estimated as on hand until sold, or remain on hand in a manufactured state for one year.

N. The read bed, right of way, station buildings, toll houses, structures, tools, machinery, poles, wires, fixtures, vessels and real estate owned and ne-plank roads, clearessarily in daily use by any turnpike, plankroad, bridge, telegraph, canal or graphs—navigation companies. slack water navigation company in the prosecution of its business, shall, for the purposes of this Act, if the company be organized in this State, be held to be personal property, and the President, Secretary or principal accounting officer thereof shall include the value thereof in return of the other personal assets of such company for taxation, which return shall be made in the month of September, or before the twentieth of October annually, to the several Auditors of the counties in which such road, canal, bridge, telegraph line or slack water navigation may be situate, according to the value of such property in each, together with a statement of the amount of such assets situate in each township, city, village or ward of said counties, respectively; and the value of the moveable assets of such company shall be apportioned to each township, city, ward or village in proportion to the value of the road bed, canal, slack water navigation, bridge or telegraph line in each.

XI. The President and Secretary of every railroad company whose track or road bed, or any part thereof, is in this State, shall, annually, between the first of September and twentieth of October, return to the Auditor of State, under their oaths, the total length of said road, the total length of said road in this State, and the length thereof in each county; township, city and incorporated village in this State, the total length of their double track in this State, and the length thereof in each county, township, city and incorporated village of this State, the total length of all their side tracks, and the length thereof in each city, county, township and incorporated village in this State; the location and value of all their shops, depots, grounds, station houses, wood and water stations, buildings, stationary engines, tools, implements and fixtures in South Carolina, and all other real estate necessary to the daily running operations of the road; the number and value, each, of all their locomotive engines, passenger, freight, platform, gravel, conA D.1568.

Manufacturers

Valuation

Railroads

A. D. 1868.

struction, hand and other cars; the value of their moneys and credits; the total value of the entire road appurtenances and equipments, and the total value of said road in South Carolina, with its appurtenances and equip-

Returns

XII. The President and Secretary of every railroad company, mentioned in the preceding Section, shall also annually, between the first of September and the twentieth of October, return to the County Auditor of each county in South Carolina through or into which such road, or any part thereof, may be located, a statement of the value of said road, and the property of the company in said county, and in each of the townships, cities and villages of said county, through or into which said road, or part thereof, is located, in the manner and form required by this Act, in the return to the Auditor of State.

Valuation.

XIII. In ascertaining the value of the road and property of any railroad company, the value of the right of way, bed and track of the whole road shall be fixed, and such value apportioned pro rata to each mile of the main track; and to the value of the number of miles of main track in each town ship, city and incorporated village of each county in this State, through and into which said road is located, shall be added the value of the real estate, fixtures, stationary engines, tools, implements, machinery, and other stationary property provided for use in the daily operations of the road, situate in said township, city or village, and the total value of the rolling stock, moneys and credits, shall be apportioned pro rata to each mile of the main track of said road, and the amount thereof, according to the number of miles of main track in each township, city and village in this State, added to the value of the main track in such township, city and village, respectively; and the aggregate value of said road and property in this State, and in each county, city, township and incorporated village of this State, through or into which said road is located, shall be stated in said return.

Returns.

XIV. The return and oath required by this Act of officers of railroad companies shall be made in such form as shall be prescribed by the Auditor of State.

Receivers.

XV. If any railroad, its appurtenances, equipments, &c., shall be in the hands of a receiver or other officer, such receiver or other officer shall make the returns required by this Act.

ditor

XVI. The Auditor of State, or any person appointed by him for that purpose, may put any question, in writing, he may deem proper, to any officer, agent or receiver of any railroad company having any portion of its track in this State, and he may summon any officer, receiver or agent of such company to appear before him and testify, under oath, (which oath said Auditor is authorized to administer,) touching such railroad company's property, and the management and disposition thereof; and he may by himself, or some person appointed by him, examine the books and papers of such company, in the hands of the company, or any of its officers, agents or receivers; and all such officers, agents and receivers shall answer, under oath, all such questions as shall be put to them, or either of them, by said Auditer, or any person appointed by him for that purpose, relative to the condition, amount and value of said company's property, and the management or disposition thereof; and if any such officer, receiver or agent shall refuse or neglect to appear before said Auditor, or the person appointed by him, or to answer any question put to him or them, as aforesaid, or submit the books and papers afore-

said for examination, in manner aforesaid, he shall be deemed guilty of a misdemennor, and upon indictment and conviction therefor, in the Court of General Sessions for any county, (which Court shall have complete and full jurisdiction in all such cases,) shall be fined in any sum not exceeding five hundred dollars and costs of prosecution, and confined in the jail of said county until he answers all questions which may be put to him by the Audi tor of State, and until said fine and costs be paid.

A. D. 1868.

XVII. The Auditor of State, Treasurer of State, Secretary of State, Comptroller-General, and Attorney-General of the State, shall constitute a ization. State Board of Equalization, (a majority of whom shall constitute a quorum for the transaction of business,) who shall meet at the office of the Auditor of State, at the capitol, on the second Wednesday of November, annually, and equalize the value of the property of railroad companies whose roads are wholly or partially in this State, as returned to the Auditor of State under the provisions of this Act, by increasing the value of the roads and property of such companies as shall have been, in their judgment, returned at too low a valuation, and diminishing the values of such as may have been returned at too high a valuation. They shall keep a record of their proceedings, which shall be signed by all the members present and deposited with, and kept by, the Auditor of State; and a majority of the members present shall be competent to decide all questions which may come before said Board.

XVIII. The Auditor of State shall certify to the County Auditor of each county in which any railroad, or part thereof, may be located, the valuations County Auditors of railroad property in said county, as returned to him, with all additions made to, or deductions from, the valuation of the property of any railroad company in said county by the State Board of Equalization; and the County Auditor shall charge the railroad company in the several townships, cities and incorporated villages of their county, for taxation, with the valuations returned by such company or companies, after adding thereto or deducting therefrom the amounts directed by the Auditor of State.

Certificates

XIX. If any railroad company, or its officers, shall fail to make the returns to the Auditor of State required by this Act on or before the twentieth day of October, annually, the State Board of Equalization shall proceed to ascertain the value of said company's road and property, according to the principles prescribed in this Act, from the best information they can conveniently obtain, and add thereto fifty per centum as penalty, and apportion the same to the several counties, townships, cities and incorporated villages through or into which said road, or any part thereof, may be located. the State Auditor shall certify the same to the several County Auditors, who shall place the same on their duplicates for taxation; and if any such company, or its officers, shall fail to make the return to any County Auditor required by this Act, the State Auditor shall ascertain the amount properly chargeable to such company in said county, and certify the same to the proper County Auditor, adding ten dollars thereto as penalty, (the whole of which penalty shall be paid into the State Treasury,) and the County Commissioners shall charge such company, in the proper municipalities, with the taxes on the value so certified by the State Auditor, and charge said company on the duplicate separately with said ten dollars, without charging any taxes thereon, and the County Treasurer shall pay the same into the State Treasury at his first annual settlement after the collection thereof.

Failure to make

Penalties.

AX. Any person or persons, company or corporation, engaged in the

returns

A. D. 1868. business of conveying to, from or through this State, or any part thereof, Express

com- moneys and other personal property, shall be held to be an express company; and any person or persons, company or corporation, engaged in the business of transmitting messages to, from or through this State, or any part thereof. To legraph come shall be held to be a telegraph company; and any such company, having its principal office out of this State, shall annually, in the month of September, or before the twentieth of October, by its principal agent in this State, make out and deliver to the State Auditor a statement, under oath, showing the value of all its personal property in this State, including poles, wires, batteries, machinery, materials and apparatus, and the counties, cities, townships and incorporated villages in which the same may be situate, together with the gross earnings of said campany in this State, for business done in this State the year ending the first day of that month, and the company's proportion of receipts for business done in connection with the lines of other companies out of this State, from the aggregate of which shall be deducted the amount paid out of any such express company to railroad and other transportation companies in this State for transporting the property carried over said transportation lines in this State, and which statement shall show the value of said property and receipts, after making the deduction aforesaid, by any such express company in each county, township, city and incorporaced village in which such express company has an agency or agencies, and from which aggregate shall be deducted, by any such telegraph company the expenses of the office in this State, to which all other agencies of the company in this State are required to make returns, except rents and officers' salaries; and which statement shall also show the aggregate value of the property and receipts aforesaid, after making the deduction aforesaid in each county, city, township and incorporated village in which such telegraph company may have an agency or agencies; and said company, by its said principal agent, shall also, between the first of September and twentieth of October, annually, deliver to the Auditor of each county in this State in whose county such company may have an agency or agencies a statement of the proportion of the net value of the property and receipts aforesaid, showing the amount thereof in each township, city and incorporated village in which it has any agency or agencies; and said company shall be charged on the duplicate of each of said counties with taxes on the amount so returned in each township, city and village aforesaid: Provided, That ordinary transportation companies, engaged exclusively in the transportation of merchandize over the railroads and canals of this State, in connection with other roads, canals, or fines of navigation, shall not be considered express companies within the meaning of this Act.

XXI. If any express or telegraph company shall fail to make and deliver Failure to make to the State Auditor the statement required by this Act, on or before the twentieth day of October annually, such company shall forfeit and pay to the State of South Carolina five hundred dollars as a penalty, and the State Auditor shall certify the fact of such failure to the Auditor of any county in this State in which said company may have an officer or an agent, and said Auditor shall place the same on the duplicate of said county, and collect the same in the same manner as taxes are collected, and pay the same over to the State Treasury at his next annual settlement with the Auditor of State; and if any express or telegraph company shall fail to make to the Auditor of any

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county in this State the statement required by this Act, on or before the list day of November of any year, such County Auditor shall notify the State Auditor thereof; and if the State Auditor shall have received from said company the statement required by this Act to be made to him by said company, he shall certify the amount returned as in said county to such County Auditor, and add thereto, as penalty, the sum of ten dollars, which shall be charged to said company on the duplicate of said county, collected and paid over to the State Treasurer in the same manner herein provided as to the penalty for not making the return to the State Auditor: Provided, That if any express or telegraph company shall fail to return the statement required by this Act to the State Auditor, and the State Auditor shall certify such failure to any County Auditor, such County Auditor shall proceed to ascertain the gross receipts of each agent of said company in his county, for the year ending the first day of September of that year, together with the value of all other property of the company in his county, add fifty per cent. thereto as penalty, and charge the company with taxes thereon at the several localities required by this Act, without any deduction for expenses paid out And if any such company shall have no principal office or by the company. agency in this State to which the other agents in the State are required to make return, each agent thereof in any county shall make return in the month of September or before the twentieth of October, annually, of the gross receipts of his agency for the year ending the first day of that month, with the value of all other property of the company in the city, village or township in which his agency is situate, and the County Auditor shall charge the company with taxes thereon at the same rates as other property in the same localities; and if such agent or agents refuse or neglect to make such return, the County Auditor shall ascertain the amount of such gross receipts and value of property, add fifty per cent. thereto as penalty, and charge such company with taxes thereon at the same rates charged other property at the several localities where such property may be situate and such agencies lo-

XXII. All returns required by this Act to be made by express and telegraph companies having their principal offices out of this State, shall be turns. made in such form as the State Auditor shall prescribe, and the State Auditor is authorized to require answers, under oath, to any questions he may put to the principal or any other agent of any of said companies in this State, and to examine any of such agents, under outh, relative to the property and affairs of such companies, and the management thereof, which oath he may administer; and if any such agent shall refuse to submit to such examination, or refuse or neglect to answer any such questions, he shall be deemed guilty of contempt of the State Auditor, and the State Auditor may certify the fact to the Court of General Sessions of any county of this State, who shall issue a warrant for the arrest of such agent, in the name of the State of South Carolina, directed to the Sheriff of such county, who shall arrest such agent anywhere in this State, and take him before said Court of General Sessions, and upon hearing and conviction, such agent shall be fined by said Court in any sum not exceeding five hundred dollars and costs, and be confined in the jail of the county where tried until such fine be paid and answers be given to all such questions as the State Auditor may propound to him.

XXIII. Each agent in this State of any insurance company organized

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Contempts.



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A. D. 1868. under the laws of any other State or country, and doing business in this State, shall annually, in the month of September or before twentieth of Oc-Insurance tober, return to the Auditor of the county in which such agency is located agencies. a sworn statement of the gross receipts of such agency for the year ending on the first day of that month, including all notes, accounts and other things received or agreed upon as a compensation for insurance at such agency, to gether with all the value of any personal property of said company situate at such agency; and the company shall be charged with taxes at the place of said agency on the amount so returned; and the agent shall also be personally responsible for such taxes, and may retain in his hands a sufficient amount of the company's assets to pay the same, unless the same shall be paid by the company.

XXIV Any company or corporation, organized under the laws of this Corporations State, and owning property in any other State or country as well as in this outside the State. State, shall not be required to return its capital for taxation in this State, but shall return such property as it owns in this State, and such proportion of the value of its other property as if owned by individual residents of this State would be taxable in this State; and if such return be made by such company, the shareholders therein shall not be required to return their shares for taxation.

Outside corporations.

 ${\bf X}{\bf X}{\bf V}$. A corporation organized under the laws of this State, but owning no property in this State, shall not be required to return its capital for taxation in this State.

XXVI. (A) Every insurance company organized under the laws of this Insurance con: State shall return all its personal property, moneys, credits, (including notes taken on subscriptions of stock,) investments in bonds, stocks, securities and assets of every kind for taxation, at the place where its principal office is ocated.

XXVI. (B) All companies and corporations, whether organized under Other corpora the laws of this State or not, the manner of listing whose personal property is not otherwise specially provided for by law, shall list for taxation all their personal property and effects at the same time, in the same manner and in the same localities as individuals are required to list similar property and effects for taxation.

XXVII. Any company incorporated under a joint charter granted by this Joint charters, and some other State or States, and the manner of taxing which, or the amount upon which it shall be taxed, or the specific proportion of its capital or property upon which taxes shall be assessed in South Carolina is prescribed or fixed in its charter, shall be assessed for taxation, and taxed as prescribed in its charter until otherwise legally provided.

Bank stocks.

XXVIII. All shares of the stockholders in any bank or banking association, located in this State, whether now or hereafter incorporated or organized under the laws of this State or of the United States, shall be listed at their true value in money, and taxed in the city, ward, township or incorperated village where such bank is located, and not elsewhere.

XXIX. The real estate of any such bank or banking association shall be Real estate of taxed in the place where the same may be located, the same es the real esbanks. tate of individuals.

XXX. There shall, at all times, be kept in the office where the business of such bank or banking association is transacted, a full and correct list of the names and residences of the stockholders therein, and the number of shares held by each, which shall be at all times, during business hours, open to the inspection of all officers who are or may be authorized to list or assess

the value of such shares for taxation.

XXXI. It shall be the duty of the President and Cashier of every such bank or banking association, between first of September and twentieth of Presidents and October, annually, to make out and return, under oath, to the Auditor of Cashiers. the county in which such bank or banking association may be located, a full statement of the names and residences of the stockholders therein, with the number of shares held by each, and the actual value in money of such shares, together with a description of the real estate owned by said bank.

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XXXII. The Auditor of the county in which any such bank or banking association may be located, upon receiving the return provided in the ors thirty-first Section of this Act, shall deduct from the actual total value of the shares in any such bank or banking association the appraised value of the real estate owned by such bank or banking association, as the same stands assessed on the duplicate, and the remainder of the total value of such shares shall be entered on the duplicate of the county, in the names of the owners thereof, in amounts proportioned to the number of shares owned by each, as returned on said sworn statement, and be charged with taxes at the same rate as charged upon the value of other personal property, at the place where such bank or banking association is located.

XXXIII. Any taxes assessed on any such shares of stock or the value thereof, in manner aforesaid, shall be and remain a lien on such shares from main as liens. the first day of September, in each year, until such taxes are paid; and in case of the non-payment of such taxes, at the time required by law, by any shareholder; and after notice received of the County Treasurer of the nonpayment of such taxes, it shall be unlawful for the Cashier, or other officer of such bank or banking association, to transfer, or permit to be transferred, the whole or any portion of said stock, until the delinquent taxes thereon, together with the costs and penalties, shall have been paid in full; and no dividend shall be paid on any stock so delinquent so long as such taxes, penalties and costs, or any part therof, remain due or unpaid.

XXXIV. It shall be lawful for any such bank or banking association to pay to the Treasurer of the county in which such bank or banking associa- taxes on shares. tion may be located the taxes that may be assessed upon its shares, as aforesaid, in the hands of its shareholders respectively, and deduct the same from any dividends that may be due, or may thereafter become due, on any such shares, or deduct the same from any funds in its possession belonging to any shareholder, as aforesaid.

XXXV. The County Treasurer may enforce the collection of any tax or penalty assessed under this Act at any time after the same becomes due by surers. distraint, attachment or other legal proceedings, instituted in his name as such Treasurer; and in case of his death or retirement from office before the collection of such taxes or penalties, his successor in office or subsequent Treasurer may be made a party to such proceedings, and prosecute the same to final judgment and execution.

XXXVI. If any bank or banking association shall fail to make out and furnish to the County Auditor the statement required by the thirty-first Examination process and process and process and process and process are processed in the country furnished to the County Auditor the statement required by the thirty-first books and process are processed in the country furnished to the County Auditor the statement required by the thirty-first books and processed in the country furnished to the co Section of this Act within the time required herein, it shall be the duty of sons. said Auditor to examine the books of said bank or banking association; also, to examine any officer or agent thereof, under oath, together with such

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use#pd-googl http://www.hathitrust.org/access Public Domain, Google-digitized other persons as he may deem proper, and make out the statement required by said thirty-first Section, and cuter the value of said shares on the duplicate for taxation. Any bank officer failing to make out and furnish to the County Auditor the statement, or wilfully making a false statement, as required in the thirty-first Section of this Act, shall be liable to a fine not exceeding one hundred dellars, together with all costs and other expenses incurred by the Auditor or other proper officer in obtaining such statement aforesaid

XXXVII. All incorporated banks and bankers shall annually, between Annual rethe first of September and thirtieth of October, make out and return to the Auditor of the proper county, under oath of the owner or principal officer or manager thereof, a statement setting forth:

> 1st. The average amount of notes and bills receivable discounted or purchased in the course of business by such unincorporated bank, banker or bankers, and considered good and collectable.

2d. The average amount of accounts receivable.

3d. The average amount of cash and cash items in possession or in transit.

4th. The average amount of all kinds of stocks, bonds or evidences of indebtedness held as an investment, or in any way representing assets.

5th. The average amount of real estate, at its assessed value for taxation. 6th. The average amount of all deposits made with them by other

parties. 7th. The average amount of accounts payable, exclusive of current deposit accounts.

8th. The average amount of Government and other securities, specifying the kind that are exempt from taxation.

9th. The amount of capital paid in or employed in such banking business, together with the number of shares or proportional interest each share-

holder or partner has in such association or partnership.

From the aggregate sum of the first five items above enumerated, the said Auditor shall deduct the aggregate sum of the fifth, sixth, seventh and eighth items, and the remainder thus obtained shall be entered on the duplicate of the county in the name of such bank, banker or bankers, and taxes thereon shall be assessed and paid, the same as is provided for other property as assessed and taxed in the same city, ward, township or incorporated village.

XXXVIII. The averages provided for in the preceding Section shall be obtained by adding togetler the amounts of each item above specified, owned by or standing on the books of such bank, banker or bankers, on the first day of each month of the year ending the last day of August in the year in which the return is made, and dividing the same by the number of months in the year: Provided, That in cases where such bank, banker or bankers commenced business during the preceding year, the division shall be made by the number of months elapsed after the commencement of such business: Provided, That all fractions of a month shall be counted as a month.

XXXIX. Every company, association or person, not incoporated under Non-incorpo any law of this State, or of the United States, for banking purposes, who shall keep an office or other place of business, and engage in the business of lending money, receiving money on deposit, buying and selling bullion, bills

Deductions.

Averages.

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of exchange, notes, bonds, stocks, or other evidences of indebtedness, with a view to profit, shall be deemed a bank, banker or bankers, within the me ning of the thirty-seventh, thirty-eighth and thirty ninth Sections of this Act

XL. The County Auditor shall have the same powers to enforce correct returns from the bank officers and bankers, to examine witnesses and enforce their attendance, and have the same aid of the Court of General Sessions turns. of the county as is provided by law in cases where individuals fail to list their property for taxation, or are suspected of having made false returns; and in all cases of failure to make returns under this Act, or in a case of a false return, by any unincorporated bank, banker or bankers, the Auditor shall ascertain the true amount, as near as may be, add fifty per cent. penalty thereto, and charge the party or parties with the taxes on the amount so ascertained by him, with the penalty aforesaid; but in cases of unintentional mistake in making the return, the true amount only shall be charged against the parties, without penalty.

Enforcing re-

XLI. Every pawnbroker, person or company engaged in the business of receiving property in pledge or as security for money or other thing advanced to the pawner or pledger shall annually in the month of September or before the thirtieth of October return, under oath, to the Assessor of the township, city or ward in which his place of business is located, the average monthly value of all property pawned or pledged to him during the year ending September first of the year in which the return shall be made, or if engaged in the business for less than a year prior to said first day of September, then for such shorter period; and such average shall be ascertained by the rule prescribed in this Act for ascertaining the average value of the property of merchants, and taxes charged on such average value as upon other property at the same place.

Pawnbrokers

XLII. Any person claiming not to have any property shall, upon the demand of the Assessor, make oath to the fact that he has no property, and if he refuse to make such oath, he shall be deemed guilty of contempt of the Assessor, and upon complaint of such Assessor to the Court of General Sessions of the county, shall be arrested and confined in the jail of the county until he answers such questions, under oath, as may be propounded to him by such Assessor, and pays the cost of the proceeding.

Non property

XLIII. There shall be assessed on all taxable polls in the State an annual tax of one dollar on each poll, the proceeds of which tax shall be applied solely to educational purposes.

XLIV. The proceeds of mines and mining claims shall be assessed and subject to taxation.

XLV. The Auditor of State shall prescribe the forms of all returns of

taxation and of the oath that shall be made thereto, and transmit the same to turns. the several County Auditors, who shall cause a sufficient number thereof to be printed and distributed to the Assessors of their several counties; and any return made in any way materially varying therefrom shall not be regarded as a return.

XLVI. If any person shall refuse or neglect to make out and deliver to the Assessor a statement of personal property as provided by this Act, or shall refuse or neglect to take and subscribe an oath as to the truth of such statement or any part thereof, or in case of the sickness or absence of such person, the Assessor shall proceed to ascertain as near as may be and make

Penalties.

turn.

A. D. 1868. up and return a statement of the personal property, and the value thereof, with which such person shall be charged for taxation according to the provisions of this Act; and to enable such Assessor to make up such statement, he is authorized to examine any person or persons, under oath, and to ascertain from general reputation and his own knowledge of facts the character and value of the personal property of the person thus absent, or sick, or refusing or neglecting to list or swear; and said Assessor shall return the lists so made up by him endorsed refused to list, or refused to swear, or absent, or sick, as the ease may be, and in his return in tabular

> of each of the persons so refusing or neglecting to list or swear, or absent, or sick.

XLVII. If any person shall fail to list the personal property be is re-Failure to re-quired by law to list in any one year, and the same escapes taxation for that year, the value thereof shall be charged against him for taxation in any subsequent year with fifty per cent. penalty added thereto, and the taxes and penalty collected as in other cases.

form to the County Auditor shall write the same words opposite the names

Valuations.

XLVIII. All real and personal property shall be valued for taxation at its true value in money, which, in all cases not otherwise specially provided for in this Act, shall be held to be the usual selling price of similar property at the place where the return is to be made; and if there be no usual selling price, then at what it is honestly believed could be obtained for the same at a fair sale at the place aforesaid; but each parcel of real property shall be separately appraised without reference to the value of any growing crops thereon

Personal propcrty taxable.

XLIX. The following articles of personal property shall be valued for taxation as follows, to-wit: Money, bank bills, and other bills lawfully circulating as money, at the par value thereof; credits, at the amount payable on the face of the contract, instrument or account, unless the principal be payable at a future time without interest, then at the sum payable less the lawful interest thereon, for any term of credit not exceeding one year; contracts for delivery of specific articles at the usual selling price of such articles at the time of listing; leasehold estates held for any definite term, at the yearly value thereof to the lessee; annuities at the yearly value thereof to the owner at the time of listing. All leasehold estate, held on perpetual lease, or for a term certain, renewable forever at the option of the lessee, shall be valued at the full price of the land and continue to be taxed When the fee of the soil in any at such value to the end of the term. tract or lot of land is in one person, and right to any minerals therein or structures thereon in another, the proceeds of the minerals and said structures shall be valued and taxed as personal property, to the owners thereof respectively.

tions.

L. The assessment of all personal property, and the valuation of all lands, Time for assess-lots and new structures which have not previously been valued and entered ments and value. on the duplicate for taxation, shall be made between the first Monday of September and the second Monday of October annually; and the Assessor shall, on or before the third Monday of September, deliver to or leave at the residence or place of business of each person within his township, city or ward, a printed form of statement or return for taxation, with the proper form of oath attached thereto, and shall, at the time he delivers such forms, receive from such person the statement of property for taxation required by

this Act, verified by the oath of such person, if desired so to do at that time by such person; but if the person be not ready nor desire to make such statement at the time of receiving such forms, he shall make up and deliver the statement to the Assessor on or before the first Monday of October of the year he received the forms, and in case of failure so to do, shall be held to have neglected to list, and shall be assessed and returned by the Assessor accordingly; and if the Assessor shall tail to deliver the forms aforesaid to any person, such person shall not thereby be excused from listing his properry for taxation; but in such case if he make and swear to his statement and deliver the same to the Assessor at any time before the second Monday of October of the year in which the return is required, the Assessor shall not return him as neglecting to list.

II. Each Assessor shall, at the time he delivers the forms mentioned in the preceding Section, enter in a book, to be provided for that purpose by All lists. each township and city, an alphabetical list of the names of all persons, companies and corporations in his township, city or ward, as the case may be, designating the section of land or street, and number, as near as may be, of the residence or place of business of such person, company or corporation, which shall be preserved in his office and handed over to his successor, and he shall enter therein a statement of all new structures erected in his township, city or ward, of the value of one hundred dollars or more, at any time during the then current year, commencing on the first day of September, and of all old structures destroyed during the same year, of the value of one hundred dollars or more, and a description of the land or lot on which such structures were respectively erected or destroyed, with the name of the owner of each, and such other things as may be required by the Auditor of State through the County Auditor.

LII. Each Assessor shall, on or before the twentieth day of October annually, make out and deliver to the Auditor of his county, in tabular form and alphabetical order, a list of the names of the several persons, companies and corporatious in whose names any personal property shall have been listed, and he shall enter separately in appropriate columns, opposite each name, the aggregate value of the several species of property mentioned in the seventh Section of this Act, making separate lists of the property listed as taxable in incorporated villages, cities and wards, and that listed as taxable out of cities, wards and incorporated villages, all of which columns shall be accurately added up and footed; and at the same time deliver to the Auditor all the statements of property listed by him or received by him from others, which the Auditor shall file by townships and wards, and preserve in his office.

LIII. Each Assessor shall annually, at the time of taking the list of personal property, also take a list of all real property in his township, ward or valuations. city, subject to taxation, which shall not have been previously listed; and of all new structures of the value of one hundred dollars or more not previously listed; and of all old structures of the value of one hundred dollars or more which were destroyed during the previous year, and affix a value thereto, with a description of the land or lot on which the same was or is situate, endorse his affidavit thereon that the same is correct, that the valuations therein stated have been made according to the rules prescribed by this Act, and return the same with the names of the owners, respectively; and if the owner of any such new structure shall be the owner of the land on

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Tabular forms

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which it is situate, or of a permanent leasehold estate therein, the County Auditor shall add to or deduct from the value of the land or lease, as the case may be, as the same may stand on the duplicate, the value of such structure so returned by the Assessor. And when required by the Auditor of State, the County Auditor shall return to the Auditor of State the value of all such structures as returned by the Assessors: Provided. That the Auditor shall not deduct any greater amount for the destruction of any structure than was previously charged for the same on the duplicate.

LIV. It shall be the duty of each Assessor to state in the columns of re-Additions to marks opposite each tax payer's name in the return made by him to the County Auditor any amount which he believes ought to be added to the valuation of the property listed by such tax payer, his agent or other person. It shall also be his duty at any time after his return to the County Auditor, if he ascertain that any personal property in his township, city or ward has not been listed, to list the same and make return thereof to the County Auditor, with the valuation thereof as fixed by the owner or himself, and the name of the owner or person to whom it is taxable, and the Auditor shall charge the same on the duplicate for taxation, adding fifty per cent. to the value as returned as penalty, and pay said Assessor one dollar out of the County Treasury, which shall also be added to the taxes and penalty aforesaid, collected and paid into the County Treasury.

LV. Each Assessor shall take and subscribe an oath, which shall be at-Assessor's tached to the return of personal property he is required to make to the County Auditor, by this Act, in the following form: ---, in the County of --- and State of South Carolina, do solemnly sweet that the foregoing return contains a true statement of all the personal property listed by myself or others for taxation ----, with the valuations thereof as sworn by others and ascertained by myself for the present year; that I have diligently endeavored to ascertain and cause all the personal and taxable property in said - to be listed; and, so far as I know and believe, all of said property (except such as is otherwise designated in said return) is valued in said return at the price for which it would sell at fair private sale; that I have not knowingly omitted to furnish any person required to list property in said --- with tye proper form for making the same; nor in any way connived at any violation of the tax laws of this State." Assessor shall not be entitled to or receive any compensation for his services until he takes and subscribes such oath; nor until he makes his return of real estate and new structures, with the valuations thereof, under oath, as required by this Act.

LVI. Any person, company or corporation, commencing any business in com- any county of this State, after the first day of September in any year, the mencing busicapital or personal property employed in which shall not have been previously listed for taxation in said county for such year, shall, within thirty days after commencing such business, report to the Auditor of the county, under oath, the average amount of the capital intended to be employed in such business from the time of its commencement to the first day of September next ensuing; and upon making satisfactory proof to said Auditor that such capital or property has been regularly listed for taxation in some other county in this State, said Auditor shall file the report and proofs in his office and give to the party a certificate that he or they have complied

with the provisions of this Section, and are not liable to taxation in his county on such capital or property for the then current fiscal year. he or they shall not satisfactorily prove that such capital or property has been previously listed for taxation in some county of this State, said County Auditor shall charge him or them on his duplicate with such proportion of all taxes levied on others upon similar capital or property, at the place of the business, as the time from the commencement of the business to the ensuing first day of September bears to one year.

LVII. It shall be the duty of each Assessor to report to the Auditor of his county the names of all persons commencing any business in his township, city or ward after the first day of September annually, whose capital port. or property employed in such business was not listed for taxation in his

township, city or ward for the then current fiscal year.

LVIII. If any person, company or corporation shall commence any business in any county of this State after the first day of September in any year, the capital or property employed in which shall not have been previously listed for taxation in said county, and shall not within thirty days thereafter make such report to the Auditor of said county as is required in fifty-sixth Section of this Act, he or they shall forfeit and pay the sum of one hundred dollars, which shall be collected by civil action in the name of the County Commissioners, and paid into the County Treasury for the exclusive benefit of the county. And process in such case may issue out of the Court of Common Pleas of the county in which such business was commenced, directed to the proper officer, and be served in any county of this State.

LIX. The County Commissioners of each county in this State shall, immediately after the passage of this Act or as soon thereafter as practicable, tricks. divide their county into suitable and convenient districts, not less than the number of townships in their county; and any county, within the limits of which there is a city, the Commissioners shall divide said city into districts, comprising within each not less than one ward, nor more than five; and no towaship or ward shall be divided in making such district, which district shall be composed of contiguous territory; and the Commissioners shall give notice, by publication in some newspaper in the county, and if no newspaper is published in the county, then by public notice set up in each township and ward at the usual place of holding elections, setting forth the boundaries of said districts.

I.X. Each person appointed to the office of District Assessor shall be forthwith notified by the County Auditor of his appointment; and each person so appointed shall, within ten days after receiving such notice, file with such Auditor his bond, payable to the State of South Carolina, with at least one good freeholder surety, to the acceptance of the County Auditor, in the penal sum of two thousand dollars, conditioned that he will diligently, faithfully and impartially perform all and singly the duties enjoined on him by this Act; and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this Act; and if any person so appointed shall fail to give bond, or shall fail to take an oath, as is required in this Section, within the time herein prescribed, the office to which he was appointed shall be considered vacant.

LXI. It shall be the duty of each District Assessor to make out from the maps and descriptions furnished him by the County Auditor, and from such

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other sources of information as shall be in his power, a correct and pertinent description of each tract and lot of real property in his district; and when Duties of Dis- he shall deem it necessary to obtain an accurate description of any separate tract or lot in his district, he may require the owner or occupier thereof to furnish the same, with any title papers he may have in his possession; and if such owner or occupier, upon demand made for the same, shall neglect or refuse to furnish a satisfactory description of such percel of real property to such Assessor, he may employ a competent surveyor to make out a description of the boundaries and location thereof, and a statement of the quantity of land therein; and the expense of such survey shall be returned by the Assessor to the Auditor of his county, who shall add the same to the tax assessed upon such real property, and it shall be collected by the Treasurer of the county with such tax, and when collected shall be paid on demand to the person to whom the same is due; and be shall, in all cases, from actual view, and from the best sources of information within his reach, determine, as near as practicable, the true value of each separate tract and lot of real property in his district, according to the rules prescribed by this Act for valuing real property; and he shall note in his plat-book, separately, the value of all houses, mills and other buildings which exceed one hundred dollars in value, or any tract of land, city, village or town lot, which shall he carried out as a part of the value of such tract or lot; he shall also enter on his plat book the number of acres of arable or plow land, the number of acres of meadow and pasture land, and the number of acres of wood and uncultivated land in each tract, as near as may be.

LXII. For the purpose of enabling the Assessor to determine the value of buildings and other improvements, he is hereby required to enter and fully to examine all buildings and structures of whatever kind, which are

not by this Act expressly exempted from taxation.

LXIII. Each District Assessor shall, on or before the first Monday of Assessor's re- December, eighteen hundred and sixty-eight, and as often thereafter as the General Assembly shall, by joint resolution, direct, make out and deliver to the Auditor of his county a return in tabular form, contained in a book to be furnished him by said Auditor, of the amount, description and value of the real property subject to be listed for taxation in his district, which return shall contain:

1st. The name of the several persons, companies or corporations in whose Names of indianame the several tracts of real property, other than town property, in each viduals. township within his district shall have been listed; and in appropriate columns opposite each name the description of each tract, designating the number of acres, the number of the section, and the part thereof, and of the Value of prop- township or survey, listed in such name, and the value of each separate

erty. tract as determined by the Assessor.

> 2d. The names of the several persons, companies or corporations in whose names the several lots of real property in each town, city and village in his district shall have been listed, and in the appropriate columns opposite each name the description of each lot, and the value thereof, as determined by the Assessor; and such description shall designate the town, city or village, the number of lot, and the part thereof; and if a part of a lot is listed, it shall state the number of feet along the principal street on which it abuts. If the name of the owner of any tract of land or lot shall be unknown, the word "unknown" shall be entered in the column of names opposite said tract or lot.

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LXIV. The District Assessor, at the time of making the assessments of other real estate for taxation, shall enter in a separate list pertinent descriptions of all the real estate exempt from taxation by law, with the valuation Descript thereof made by himself, determined by the rules prescribed in this Act, and designating the owner of each several parcel.

Description of

LXV. The County Auditor, the County Treasurer, the County Commissloners, or a majority of them, shall form a County Board for the equalizaproperty in the city of Charleston, which shall be equalized by a Special Board, as heremafter provided. They shall meet on the second Monday of

County Board

tion of the real property of their county, with the exception of the real December, one thousand eight hundred and sixty-eight, and as often thereafter as the General Assembly shall, by joint resolution, direct, at the Auditor's office, in the several counties, when the County Auditor shall lay before them the returns of the real property made by the several District Assessors of such county, with the additions he shall have made thereto; and having each taken an oath fairly and impartially to equalize the value of the real estate of such county, according to the provisions of this Act, they shall immediately proceed to equalize such valuation so that each tract or lot shall be entered on the tax list at its true value, and for this purpose they shalt

Special Board.

1st. They shall raise the valuation of such tracts and lots of real property

as, in their opinion, have been returned below their true value, to such price

observe the following rules:

or sum as they may believe to be the true value thereof. 2d. They shall reduce the valuation of such tracts and lots as, in their opinion, have been returned above their true value, as compared with the average valuation of the reat property of such county, having due regard to their relative situation, quality of soil, improvement, natural and artificial ad-

Reducing.

vantages possessed by each tract or lot. 3d. They shall not reduce the aggregate value of the real property of the county below the aggregate value thereof, as returned by the Assessors with the addition made thereto by the Auditor, as hereinbefore required; the County Auditor shall keep an accurate journal or record of the proceedings and orders of said Board

LXVI. Each County Auditor shall, on or before the third Monday of December, one thousand eight hundred and sixty-eight, and on the same day in each year thereafter, make out and transmit to the Auditor of State an ab-real property. stract of the real property of each township in his county in which he shall set forth:

1st. The number of acres, exclusive of town lots, returned by the several Assessors of his county, with such additions as shall have been made thereto.

2d. The aggregate value of such real property other than town lots as returned by the several Assessors of his county, inclusive of such additions as shall have been made thereto under the provisions of this Act.

3d. The aggregate value of the real property in each town, city and vils lage in his county, as returned by the several Assessors, with such addition-

as shall have been made thereto.

LXVII. The State Board of Equalization shall consist of one member from each Congressional District of the State, all of whom shall have the qualification of electors; and the qualified electors of each Congressional District shall, at the general election in the year one thousand eight hundred A. D. 1568.

Equalization.

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and sixty-eight, and on the same day in every fifth year thereafter, elect persons to serve as members of such Board of Equalization, in accordance State Board of with the provisions of this Section; and the returns of the poll books and certificate of election shall be governed by the law regulating the election of Representatives to Congress; and in case of vacancy in such office, either by death, resignation or otherwise, the Governor of the State shall have the power to appoint a person, who shall be a resident elector of the district so vacated, to fill such vacancy as soon as he shall be informed thereof. Governor, Secretary and Auditor of State shall, by virtue of their offices, be members of this Board. The said Board shall meet at Columbia on the fourth Monday of December one thousand eight hundred and sixty-eight, and on the same day in every fifth year thereafter, and the members thereof shall each take an oath or affirmation that he will, to the best of his knowledge and ability, so far as the duty devolves on him, equalize the valuation of real property among the several counties, towns, cities and villages in the State, according to the rules prescribed by this Act for valuing and equalizing the value of real property; and having received from the Auditor of the State the abstracts of real property transmitted to him by the several County Auditors, said Board shall proceed to equalize the same among the several towns, cities, villages and counties in the State, in the manner hereinafter prescribed:

Additions.

1st. They shall add to the aggregate value of the real property of every county which they shall believe to be valued below its true value in money such per centum in each case as will raise the same to its true value in money.

Deductions.

2d. They shall deduct from the aggregate valuation of the real property of every county which they shall believe to be valued above its true value in money such per centum in each case as will reduce the same to its true value in money.

3d. If they believe that right and justice require the valuation of the Discretionary, real property of any town, city or village in any county, or of the real property of such county not in towns, cities or villages, to be raised or to be reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, they may, in every such case, add to or take from the valuation of any one or more of such towns, cities or villages, or of property not in towns, cities or villages, such per centum as they believe will raise or reduce the same to its true value in money.

4th. They shall not reduce the aggregate value of all the real property of the State, as returned by the County Auditors, below the aggregate value of

said property, as returned by the Assessors.

5th. Said Board shall keep a full account of their proceedings and orders.

of Equalization.

Powers.

LXVIII. There shall be an annual County Board for the equalization of County Board the real and personal property, moneys and credits in each county, exclusive of the city of Charleston, to be composed of the County Commissioners, County Auditor and County Treasurer, who shall meet for that purpose at the Auditor's office in each county, on the second Monday of December, Said Board shall have the power to hear complaints and to equalize the valuation of all real and personal property, moneys and credits within the county, and shall be governed by the rules prescribed in the six-

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ty-fifth Section of this Act for the government of County Boards for the equalization of real property: Provided, That said Board shall not reduce the value of the real property of the county below the aggregate value thereof, as fixed by the State Board of Equalization, nor below its aggregate value on the duplicate of the preceding year, to which shall be added the value of all new entries and new structures over the value of those destroyed, as returned by the several township Assessors for the current year.

Limitation of.

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LXIX. There shall be a special Board for the equalization of the real and personal property, moneys and credits in the city of Charleston, to be com- Board of Equalposed of the County Auditor and six citizens of said city, to be appointed ization Charleston. by the City Council of said city, which Board shall meet annually at the Auditor's office of said county on the first Monday of December, and shall have power to equalize the value of the real estate and personal property, moneys and credits within said city, and shall be governed by the rules, provisions and limitations prescribed for the government of annual County Boards for the equalization of real and personal property, moneys and credits, but said Board shall not continue its session more than two weeks in one year.

LXX. The several County Auditors shall lay before the several annual Boards of Equalization aforesaid the valuations of the several tracts and lots County Anditof real property in their county or city, as the case may be, as the same was Equalization. entered on the duplicate of the preceding year, or as fixed by the State Board of Equalization, and of those returned by the Assessors for the current year, with such maps, returns, lists and abstracts as are in their respective offices; and each shall keep a regular journal of its proceedings, which shall be deposited and kept in the office of the County Auditor. Said city ceedings. Boards shall have power to equalize the valuations of the several parcels or Figure 1 is lots of real property in such city, respectively, by adding to the value thereof in such wards, blocks or other districts therein, which, in their opinion, is too low, and by adding to the value of such several parcels or lots as they may deem too low, and reducing the value thereof in such wards, blocks or other districts as they may deem too high, and by reducing the value of such several parcels or lots as they may deem too high. They shall also have power to hear complaints and equalize the value of the personal property, new entries and new structures in said cities, respectively, returned for taxation the current year, by adding such per centum or amount to the valuations in such wards or of such individuals as they may deem equitable and just, and by deducting from the valuations in such wards or of individuals such per centum or amount as they may deem equitable and just. County Boards shall have power to equalize the valuations of real property in their respective counties, by adding to the value thereof in such townships, villages, towns and other districts not in the city as they may deem low, and by adding to the valuations of such several parcels as they may deem too low; also to reduce the valuations thereof in such townships, villages, towns and other districts, or of individuals, as they may deem too high; nevertheless, the aggregate deductions from the valuations of real estate shall be subject to the limitations prescribed in the sixty fifth Section of this Act; nor shall the aggregate reductions of the valuations of personal property reduce the total value of the personal property in the city or county below that returned by the Assessor.

LXXI. The County Auditor shall add to or deduct from the value of the

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real estate or personal property such per centum, in townships, villages, towns, wards, blocks, or other districts, as may be ordered by the Board of Valuations ad- Equalization of the city or county, as the case may be, on the duplicate, distributing the same pro rata to each owner, and shall add to or deduct from the valuation of the real or personal property of individuals, companies or corporations, such sum or sums as may be ordered by either of said Boards

LXXII. When the State Board of Equalization shall have completed their Anditor of equalization of real property, among the several counties, the Auditor of State shall transmit to each County Auditor a statement of the per centum to be added to or deducted from the valuation of the real property of his county, specifying the per centum added to or deducted from the valuation of the real property in each of the several towns, villages and cities, and of real property not in towns, villages or cities, in case an equal per centum shall not have been added to or deducted from each; and the County Auditor shall forthwith proceed to add to or deduct from each tract or lot, in his county, the required per centum on the valuation thereof as it stands, after · having been equalized by the County Board of Equalization, adding any fraction over fifty cents, and deducting any fraction less than fifty cents, so that the valuation of any tract or lot shall not contain any fraction of a dollar, and charge the same with taxes upon such equalized value. The State Auditor shall, also, on or before the first day of January, annually, give notice to each County Auditor of the rates per centum authorized by law to be levied for the various State purposes, which rates or per centum shall be levied by the County Auditor on the taxable property of the county, and charged on the duplicate with the taxes required to be levied and collected for other purposes.

atructions to be transmitted.

LXXIII. The Auditor of State shall, from time to time, prepare and Forms and in-transmit to the several County Auditors all such forms and instructions as he may deem necessary to carry into effect the provisions of this Act, and decide all questions which may arise as to the true construction of this Act, or in relation to the duty of any officer under this Act; and the forms thus transmitted shall be observed and used by all county, township and municipal officers; the instructions thus given shall be obeyed by, and the decisions thus made shall be binding upon, all county, township and municipal officers.

LXXIV. The Attorney-General shall, when requested so to do, give to Attorney-Gen- the Auditor of State a written opinion upon any question submitted to him eral to give by said Auditor, relative to the true construction of this Act, or any proopinions. visions thereof, or any duty enjoined upon the Auditor of State by this Act.

LXXV. Each County Auditor shall make out, in a book to be prepared Schedules of for that purpose, in such manner as the Auditor of State shall prescribe, a taxable property complete list or schedule of all taxable property in his county, and the value thereof as equalized, so arranged as that each separate parcel of real property in each township, other than city, village and town property, shall be contained in a line or lines opposite the name of the owner or owners, arranged in numerical or alphabetical order, unless otherwise directed by the Auditor of State, and so that each lot or parcel of real property in cities, villages and towns shall be contained in a line or lines opposite the names of the owners thereof, respectively, arranged in alphabetical order, unless otherwise directed by the Auditor of State. And the value of all personal property shall be Public Domain, Google-digitized

set down opposite the names of the owners thereof, respectively, and if listed by any person other than the owner, for and in the name of the owner, the name of such person and the character in which he acted shall also be stated in such list, and segarate lists shall be made for each city, village, town and township, arranged in alphabetical order, unless otherwise ordered by the Auditor of State, which list or schedule, made out as aforesaid, shall be retained in the County Auditor's office, and another made for the County Treasurer, and delivered to him on or before the fifteenth day of January annually, as his warrant for the collection of the taxes, assessments and penalties charged thereon, each and both of which lists shall be denominated the county duplicate.

LXXVI. Each County Auditor, after receiving from the Auditor of State, and from such other officers and authorities as shall be legally empowered to determine the rates or amount of taxes to be levied for the various purposes authorized by law, statements of the rates and sums to be levied for the current year, shall forthwith proceed to determine the sums to be levied upon each tract and lot of real property, adding the taxes of any previous year that may have been omitted, and upon the amount of personal property, moneys and credits listed in his county, in the name of each person, company or corporation, which shall be assessed equally on all real and personal property subject to such taxes, and set down in one or more columns, in such manner and form as the Auditor of State shall prescribe; and in all cases where the whole amount of taxes upon the personal property, moneys and credits of any person shall not amount to ten cents, the Auditor shall not enter the same upon the duplicate, if such person has no other taxable property.

LXXVII. The County Auditor shall not be required to assess on the taxable property of their counties, or of any township, city or incorporated village, or school district therein, for any purpose, nor for all purposes added together, any rate of taxation containing or resulting in any fraction other than a decimal fraction, nor in any fraction less than one-twentieth of a mill; but if the sum required to be raised for any or all purposes results in a fraction less than one-twentieth of a mill, such fraction shall be dropped, and if more than one-twentieth and less than one-tenth of a mill, the County Auditor shall add enough thereto to make it one-tenth of a mill, and levy the same accordingly.

LXXVIII. The County Auditor shall enter the taxes on the duplicate, to be retained in his own office, in such number of columns as the Auditor of State shall from time to time direct, but on the duplicate for the County Treasurer he shall enter the taxes against each parcel of real and personal property on one or more lines opposite the name of the owner or owners; and in all other respects the Auditor of State may prescribe forms for county duplicates as may seem to him most conducive to the interest and convenience of the public, and County Auditors shall conform thereto.

LXXIX. When the taxes, assessments and penaltics charged against any parcel or lot of real property shall not be paid on or before the first day of March in each year, or collected by distress or otherwise, as authorized by this Act, a penalty of twenty per cent. thereon shall be added by the County Auditor on the county duplicate; and if the taxes and penalty shall not be paid on or before the twentieth day of April next thereafter, or collected by distress or otherwise, the penalty and said taxes shall be treated as the delinA. D. 1868.

Assessments.

Duplicates.

Penalties.



quent taxes on such real property, to be colleted in the manner that is or may be prescribed by law; and if the amount of such delinquent taxes, assessments and penalties shall not be paid on or before the twentieth day of May of the current year, the delinquent taxes, assessments and penalties of the current year shall be due and collected by the sale of such real estate in the manner that is or may be required by law.

linquents.

LXXX. Each County Auditor shall annually, in the month of March, Record of de-make out and record, in a book to be provided for that purpose, a list of all lands, city, village and town lots returned by the Treasurer delinquent at the preceding settlement, describing such lands and lots as the same were described on the duplicate, and charging thereon the unpaid taxes, penaltics and assessments as the same were charged on the duplicate, and also the taxes and assessments of the current year, and shall certify to the correctness thereof, and sign the same officially.

LXXXI. If any taxes charged on any real estate be regularly paid, and such real estate be erroneously returned delinquent, and sold for such taxes, Taxes refunded, the sale shall be totally void; or if any taxes shall be illegally assessed and collected, when the same shall become known to the County Auditor, he shall, on demand of the party interested, submit the matter to the Auditor of State, and if the Auditor of State approve thereof in writing, the amount paid by the purchaser at such void sale, or the amount so illegally collected, shall be repaid to the party paying the same, out of the County Treasury, on the order of the County Auditor; and so much of said taxes as shall have been paid into the State Treasury shall be refunded to the County Treasury, and the County Auditor shall retain the same in his next annual settlement and charge the State therewith.

rected.

LXXXII. If the County Auditor shall at any time discover that any real Omissions cor- estate or new structure, duly returned and appraised for taxation, has been omitted from the duplicate, he shall immediately charge the same on the duplicate with the taxes of the current year, and the simple taxes of each pre-And if the owner of any ceding year the same may have escaped taxation. real estate or new structure thereon subject to taxation has not reported the same for taxation according to the requirements of this Act, and the same has not been appraised for taxation, the Auditor shall, upon discovery thereof, cause the same to be appraised by the Assessor of the township or ward in which the same is situate, and upon return of such appraisement shall charge the same upon the duplicate with the taxes of the then current year, and the taxes of each preceding year it may have escaped taxation, with twenty per cent, penalty upon such taxes of preceding years. And if any real estate shall have been omitted in the return of any Di triet Assessor, the Auditor of the county shall cause the same to be immediately appraised for taxation by the township or ward Assessor; and upon notice by the County Auditor to the Assessor of the township or ward where any such real estate is situate, with a description of such real estate, it shall be the duty of such Assessor forthwith to appraise and return the same to said Auditor, who shall file the same in his office, and charge the same with the taxes of the current year and the simple taxes of the preceding years it may have escaped taxation; and if such Assessor shall not within ten days from the receipt of a notice from the County Auditor return to such Auditor an appraisement of the real estate therein described, or any new structure thereon, said Auditor shall appoint some freeholder of the county, who shall, under oath, return an appraisement

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of such real estate or new structure to the Auditor, and said Auditor shall pay him therefor at the rate of three dollars per day out of the County Treasury, and immediately notify such Assessor to pay the same into the County Treasury; and if said Assessor shall not pay the same into the County Treasury within ten days from the receipt of said last mentioned notice, one hundred per cent. penalty shall be added thereto, and said Auditor shall commence suit therefor as such Auditor, before the Court of Common Pleas for the county, who, upon hearing and proof, shall render judgment for the amount so paid out of the County Treasury, with one hundred per cent. thereon and costs of suit, which shall be collected as in other cases of judgment, the penalty retained by the County Auditor as his compensation, and the remainder, except costs, paid into the County Treasury.

LXXXIII. If the County Auditor shall suspect or be informed that any person or persons, ecrporation or company, has evaded making a return, or made a false return of his, her or their personal property for taxation, or have or has not made a full return, or that the valuation returned is less than it should have been according to the rules prescribed by this Act, it shall be his duty, at any time before the settlement with the Treasurer for the year, to notify such party to appear before him at his office, at a time fixed in said notice, together with such other person or persons as said Auditor may desire to examine, and the party, together with any witness called, shall be examined by said Auditor, under oath, (which oath said Auditor is authorized to administer,) touching the personal property and the value thereof of such party, and everything which may tend to evince the true amount such party should have returned for taxation.

LXXXIV. If any person notified, either as a party or witness, to appear before the County Auditor, as provided for in the preceding Section, shall refuse or neglect to appear before the County Auditor at the time stated in said notice, or shall refuse to be sworn, or refuse to answer any question put to him by said Auditor, touching the matter under examination as aforesaid. he shall be deemed guilty of contempt of said Auditor, and said Auditor shall make complaint thereof to the Court of General Sessions of the county, who shall thereupon issue an attachment against the person complained of, in the name of the State of South Carolina, directed to the Sheriff of the county, who shall arrest such party anywhere he may be found in the State of South Carolina, and take him personally before said Court, and upon conviction thereof, such party shall be fined for such contempt of the County Auditor, by said Court, in any sum not exceeding fifty dollars and costs of prosecution, and be confined in the county jail of said county until answers shall be made to all questions which may be propounded to him by said County Auditor, and such fine and costs paid; and when such fine is collected, it shall be paid into the County Treasury to the credit of the county

LXXXV. The County Auditor, when he shall deem deem it necessary, may adjourn the examination provided for in the preceding Section (eighty-of examinations four), from time to time; and if he shall find that the party had failed to make any return for taxation, or intentionally made a false return, or intentionally returned his or their property for taxation at less than its fair cash value, he shall determine what amount should have been returned by the party, and add fifty per cent. thereto as penalty, and charge the same, with said penalty, against the party on the duplicate, with the taxes of the cur-

A. D. 1868.

Contumacion

Punishment.

Adjournm e n

False returns

Penalty.

A. D. 1868.

rent year; but if he shall find the party committed a merely unintentional mistake in any return made, he shall add such amount as he may deem just to such return, and charge the party with the simple taxes thereon, adding witnesses' fees, if any, and the costs of serving the notice.

Expense of examination.

LXXXVI. If upon the examination provided for in the eighty-third Section of this Act the return made to or by the Assessor shall be found to be correct, the expenses of the examination shall be paid by the County. Auditor out of the County Treasury; but if it shall be found that the return, as made, was intentionally false, or that no return was made, the Auditor shall pay the expenses of the examination out of the County Treasury, and charge the same to the party on the duplicate, in addition to the penalty provided for in such cases; and the amount collected, with the taxes of the party, to reimburse the Treasury of the County for the expenses paid as aforesaid. But if the return made was unintentionally erroneous, said Auditor shall pay the witnesses' fees and costs of serving the notice out of the County Treasury, charge the same on duplicate to the party, and the same shall be collected and paid into the County Treasury, as aforesaid.

Fees.

LXXXVII. The expenses to be allowed upon the examination provided for by the eighty-third Section of this Act shall be, for serving the notice or notices, the fees allowed to Sheriffs and Constables for serving a summons, and to witnesses, the same fees allowed to witnesses in suits before Justices of the Peace.

neglect.

LXXXVIII. Each County Auditor shall add to the value, as returned Penalty for by the Assessor, of all personal property, the owner of which, or other person whose duty it is made by this Act to list the same, shall have refused or neglected to list, or to the value of which such person shall have refused or neglected to swear, fifty per centum on the value so returned by the Assessor, and charge the same on duplicate, which shall be collected and apportioned to the several funds for which taxes are assessed against such owner pro rata, in proportion to the respective levies.

LXXXIX. If any person required by this Act to list property for taxa-Sickness or ab- tion shall have been prevented by sickness or absence from giving to the Assessor the statement or return for taxation required by this Act, such person or his agent may, at any time prior to the tenth day of November of the year of the assessment, make out and deliver to the County Auditor a statement of the same, as required by this Act, sworn to as if made to the Assessor, (which oath the Auditor is authorized to administer,) and shall also make oath before said Auditor that he was sick or absent during the whole time when he should have otherwise listed his property to the Assessor for that year; and if absent, that such absence was not for the purpose of avoiding the listing of his property. The Auditor shall receive the return made by the absent person, and charge such party with taxes on the duplicate according to the return so made to h.m.

untions.

XC. Each County Auditor shall correct the valuation of any parcel or Correcting val. lot of real property on which any structure of one hundred dollars or more in value may have been constructed, or on which any structure of like value may have been destroyed according to the return thereof, made in accordance with the provisions of this Act, by the Assessor, and assess the tax upon such corrected valuation; said Auditor shall also correct any errors he may discover in the name of the owner, in the description or quantity of any parcel or lot of real estate, and any clerical errors in his duplicate, or in any return made to his office; he shall also correct any errors in his duplicate when ordered by the Auditor of State; but he shall not reduce any assessment of personal property regularly made and returned to his office, nor make any deduction from the valuation of any tract, lot or parcel of real estate, except such as shall be ordered by the State, County or City Board of Equalization, in conformity with the provisions of this Act, or upon the written order of the Auditor of State, which written order shall only be made by the Auditor of State upon a statement of facts submitted to him in writing; and when any personal or real property has been listed, returned or entered for taxation in a wrong locality, the County Auditor shall correct the return or entry, and charge such property with the taxes in the locality required by the provisions of this Act: Provided, That any correction made in the duplicate by the County Auditor shall be entered on both the Auditor and Treasurer's duplicate, except that in case of the reduction of any assessment or tax, the Auditor may furnish the Treasurer

XCI. Each County Anditor shall annually, on or before the 15th day of January, make out and transmit, by mail, to the Auditor of State, a com-plicates, plete abstract of the duplicate of his county, which shall state the aggregate value of taxable property, and the total amount of taxes assessed thereon for that year; and he shall at the same time also make out and transmit to the Auditor of State an abstract of the number and value of each of the enumerated articles of personal property, the value of merchants' and manufacturers' stock, and the value of all other personal property, as returned by the Assessor and fixed by the Board or Boards of Equalization; but said abstracts shall be made out in such form and contain such details as the

Auditor of State may prescribe.

with a certificate of such reduction.

XCII. Each County Auditor shall attend at his office on or before the first Tuesday of May annually, to make settlement with the Treasurer of his tlements. county, and ascertain the amount of taxes, penalties and assessments collected by such Treasurer, and the amount with which such Treasurer is to stand charged on account thereof, and on account of each fund for which a levy was made on the duplicate; and each Auditor shall take from the duplicate previously put into the hands of said Treasurer for collection a list of all such taxes, assessments and penalties as such Treasurer has been unable to collect, therein describing the property as described on the duplicate, and shall note thereon in a marginal column the several reasons assigned by such Treasurer why such taxes or other charges could not be collected, which list shall be denominated the delinquent list, and which shall be signed and sworn to by the Treasurer before said Auditor; and said Auditor shall record the same in a book to be provided for that purpose, and transmit an abstract thereof to the Auditor of State, by the County Treasurer, at his annual settlement with the Auditor of State; and in making such list, the delinquencies in each township, village and town shall be stated separately; and after deducting the amount of taxes, assessments and penalties so returned delinquent, and the collection fees allowed the Treasurer by law, said Treasurer shall be held liable for the balance of the taxes, assessments and penalties charged on the duplicate: Provided, however, That only the following causes shall be assigned by said Treasurer on said delinquent list for not collecting any tax, penalty or assessment, to-wit :

lst. That sufficient personal property of the party charged therewith collection of

could not be found out of which to make the same.

A D. 1808.

Abstract of du-

Causes for non

A. D. 1868. 2d. That property was found but could not be sold for want of bidders; and,

> 3d. That such taxes, assessments or penalties were enjoined by a competent Court.

Statement Treasurer.

tificates.

XCIII. In making the settlements required by the preceding Section, the County Auditor shall carefully ascertain the true amount collected by the Treasurer on account of the several taxes, penalties and assessments charged on such duplicate, and the amount remaining in the hands of the Treasurer belonging to each fund, and shall give to such Treasurer an official statement of the several sums charged to him as having been collected by him The County Auditor shall also make and on account of the several funds. Duplicate cer- out and deliver to said Treasurer duplicate certificates showing the amount charged on the duplicate for the several purposes for which taxes and assessments shall have been levied; also of the taxes, &c., remaining unpaid as stated on the delinquent list.

XCIV. Each County Auditor shall, annually, during the first week in Notice of meet- September, except the present year, in which he shall then, or as soon thereafter as possible, publish in two newspapers printed at the county seat of his county, if two papers be there published, if not, in one such paper, a notice calling upon all Assessors in his county to meet at his office on the first Wednesday of that mouth for consultation, except the present year, in which he shall then, or as soon thereafter as practicable, and at the meeting of such Assessors convened in pursuance of such notice, he shall deliver to them, respectively, all the forms to be used in making assessments, and in the performance of their other duties, with lists of the real estate, new town and city lots, and new structures to be appraised for taxation, which have not previously been appraised for that purpose; also upon which structures have been destroyed so far as known to him, together with such instructions as he may have received from the Auditor of State relative to the duties of Assessors, and shall then and at all times answer any questions they or any of them shall propound relative to their duties, and give them such instructions as shall tend to uniformity in the action of Assessors. XCV. All taxes, except as herein excepted, shall be payable, annually, on

annually.

Taxes payable or before the first day of March, after their assessment, and the several County Treasurers shall collect the same in the manner required by law, and give the receipts therefor to the several parties paying the same in which the real estate paid on shall be briefly described, and the value of the personal property paid on shall be stated, together with the time such taxes may be psyable.

Office to be kept open.

XCVI. The County Treasurer shall keep his office open for the receipt of taxes from the fifteenth of January to the twentieth day of May.

Proceedings quents.

XCVII. When the taxes and assessments charged against any party or reported in graphs property on the duplicate shall not be paid on or before the first day of March, after the assessment thereof, or when the remainder of such taxes and assessments shall not be paid on or before the twentieth day of May next thereafter, together with twenty per cent. penalty on such remaining unpaid, the County Treasurer shall proceed to collect the same by distress or otherwise, as may at the time be prescribed by law, together with a penalty of five per cent. ou the amount so delinquent, which penalty shall be for the use of the Treasurer as a compensation for making such collection. NCVIII. The County Treasurer, immediately upon the receipt of the tax

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A. D. 1868

Public notice

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duplicate for the year from the County Auditor, shall cause a notice to be inserted once in two daily newspapers published at the county seat of his county, if two such papers be there published, if not, then in one such paper, and if no daily paper be published at such county seat, then in two weekly papers published at said county seat, but if two such weekly papers be not there published, then in one such paper, and if no paper is published in the county, then such notice shall be given in such manner as the County Treasurer may direct, stating the total rate per centum of levies for State purposes, and the total rate per centum for all other purposes in each township, city and incorporated village on the duplicate of that year; and if any special levies have been made on the property of a school or other district, not affecting an entire township, the total rate of levies in such district shall also be stated in such notice.

XCIX. All personal property subject to taxation shall be liable to distress and sale for the payment of taxes and assessments; and at any time erty liable after any taxes or assessments shall become due according to law, the County distress. Treasurer, by himself or deputy, may distrain sufficient personal property of the party against whom such taxes or assessments are charged, if the same can be found in his county, to pay the taxes or assessments so due, with any penalty charged or chargeable thereon, and the costs that may accrue, and shall immediately advertise the same in three of the most public places in the township or ward in which such property shall be distrained, stating the time and place in such township, city or ward, when and where such property will be sold; and if the taxes, assessments and penalties for which such property was distrained, together with the costs of the proceeding, shall not be paid before the day appointed for such sale (which shall not be less than five nor more than ten days, posting up such notices of sale), such Treasurer or his deputy shall proceed, at the time and place mentioned in said notices, to sell such property, or so much thereof as may be necessary, at public vendue, to the highest bidder; and if such property, or a sufficient amount thereof, shall not be sold at the time and place aforesaid, such Treasurer shall retain the same in his possession, and advertise and offer the same for sale, in manner aforesaid, from time to time, until the same shall be sold.

C. The Treasurer shall be allowed the same fees and costs for making distress and sale of property for the payment of taxes as are or may be allowed to Sheriffs or Constables for making levy and sale of property on execution, traveling fees to be computed from the seat of justice of the county to the place of making distress.

CI. Each County Treasurer shall, on or before the first Tuesday of July of each year, settle with the Auditor of his county for all taxes, assessments urers settle and penalties collected by him on the duplicate of the preceding year, and ditor. ascertain the amount with which he shall stand charged on account of such taxes, assessments and penalties; and he shall furnish said Auditor the names of all parties against whom taxes, assessments or penalties are charged on said duplicate from whom he has been unable to collect such taxes, assessments or penalties, and the amounts uncollected; and when such Treasurer has made a list thereof, he shall swear to and sign the same before said Auditor, assigning only such reasons for non-collection as are mentioned in the ninety-second Section of this Act, (and only such amounts shall be inserted in said list as remain uncollected on account of some one of the causes mentioned in said ninety-secend Section,) and after deducting

Fees and cost

County Treas

ment, and after going out of office he may maintain an action in his own name as aforesaid for the collection of such tax, penalty or assessment.

A D. 1868. his fees and the amount included in said delinquent list, he shall stand charged with the remainder of the taxes, assessments and penalties charged on said duplicate; but, if in making such settlement, the County Treasurer shall stand charged with any tax, assessment or penalty, which, in fact, was not paid prior thereto, he may, at any time while remaining in office, collect the same by distress and sale of property as in other cases of delinquent taxes, or by action in his own name as for money paid for the use of the party or parties charged with or bound to pay said tax, penalty or assess-

CII. Each County Treasurer shall, within ten days next after each an-County Treas- nual settlement with the County Auditor as required by this Act, present to ments with State the Auditor of the State and Comptroller-General each one of the duplicate certificates required by the ninety-third Section of this Act, to be given to him by the County Auditor; he shall also present to the Auditor of State the abstract of the delinquent list required by the ninety-second Section of this Act, to be transmitted to said Auditor of State; and upon the receipt of the certificate and abstract aforesaid, the Auditor of State shall settle with such County Treasurer for the money in the hands of such Treasurer belonging to the State, and upon ascertaining the exact sum or sums payable by such Treasurer shall certify the same to the Comptroller-General, specifying in such certificate the amount belonging to each fund and the total amount to be paid into the State Treasury; and on receipt of such certificate, the Comptroller-General shall issue his certificate specifying as aforesaid; and said County Treasurer shall forthwith deliver said Comptroller's certificate to the Treasurer of the State, and pay into the State Treasury the full amount of all sums so found to be in his hands belonging to the State, and the Treasurer of State shall give to such County Treasurer triplicate receipts therefor, specifying therein the amount of each fund and the aggregate as stated in said certificates, one of which said County Treasurer shall County Treas-deliver to the Auditor of State and one to the Comptroller-General: Prourer romit to vided, Every County Treasurer shall, on the fifteenth of each month, forward to the State Treasurer all the moneys collected by him for or on account of the State taxes, specifying for and on account of what fund the same was collected, for which triplicate receipts shall be returned to them

Chattel unpaid.

The County Treasurer shall also, on the fifteenth the Comptroller-General. day of each month, notify the Board of County Commissioners and selectmen of towns the amount of funds collected for and on account of their respective counties and towns, and the character of such funds. CIII. If any chattel tax shall be unpaid at the time fixed for the paytaxes ment thereof by this Act, or returned delinquent as authorized by this Act, the County Treasurer may not only distrain property for the payment thereof, but may recover the same with the penalties thereon by action at law, proceedings in attachment or other means authorized by law to be used by private individuals in the collection of debts, which action or other proceedings shall be prosecuted in the name of such Treasurer; and if he shall die or go out of office before the termination of such action or pro-

ceeding, or the final collection of the money, or any judgment or order therein, his successor or successors may, from time to time, be substituted as

by the State Treasurer; of said receipts one shall be retained by the County Treasurer, one shall be forwarded by him to the State Auditor, and one to

plaintiff therein.

A. D. 1868.

such non-collection.

CIV. If, after the return of any chattel tax by any County Treasurer as delinquent, the County Treasurer shall know or be informed that the party against whom the same is charged resides in some other county in this State, against non-resi or has property or debts due him therein, it shall be his duty to make out dents. and forward to the Treasurer of such other county a certified statement of the name of the party against whom such taxes are charged, of the value of the property on which such taxes were levied, the amount of the taxes and penalties assessed thereon, and that the same are delinquent, to the aggregate of which taxes and penalties he shall add twenty-five per cent. as collection fees, upon the receipt of which certificate it shall be the duty of the Treasurer of such other county to collect such delinquent taxes and penalties, with the twenty-five per cent. collection fees as aforesaid, for which purpose he shall have all the rights, powers and remedies conferred by this Act upon the Treasurer of the county in which such taxes were assessed, and be allowed the same fees for distraint and sale of property as if said taxes had been levied in his own county, and upon collection made may retain one-half of said twenty-five per cent. collection fees, and shall transmit the balance collected by him to the Treasurer of the county from whom he received such certified statement per mail, at the same time transmitting by mail, to the Auditor of the county from which said certified statement was sent, a statement of the amount thus transmitted by mail to the Treasurer of said latter county, and of whom collected, and said Auditor shall charge his Treasurer therewith, after deducting one-half of said twenty-five per cent. collection fees, and distribute the same to the several funds for which it was levied, and the State proportion shall be paid into the State Treasury at the next annual settlement of the County Treasurer; but if the Treasurer to whom any such statement is sent cannot collect the amount therein named, nor any part thereof, he shall return the same so endorsed, with reasons for

CV. All real property returned delinquent by the County Treasurer, as provided for by this Act, shall be offered for sale on the second Tuesday in June next after the same shall be thus returned, to satisfy the taxes, assessments and penalties charged thereon.

CVI. On or before the twentieth day of May, annually, the County Auditor shall compare the delinquent list with the duplicate in the hands of the County Treasurer, and designate on said list all the parcels of real estate upon which the taxes, assessments and penalties have been paid, including the taxes of the then current year, and proceed to advertise the remainder for sale, as hereinafter provided.

CVII. Euch County Auditor in this State shall annually cause the list of delinquent lands in his county to be published weekly for two weeks, be-lands to be put tween the twentieth day of May and the second Tuesday of June following, lished. in one newspaper, and no more, published in his county; and if no paper be published in said county, then in some newspaper having the most general circulation in said county, to which list there shall be attached a notice in the following form, to-wit: "Notice is hereby given, that the whole of the several parcels, lots and parts of lots of real estate described in the preceding list, or so much thereof as will be necessary to pay the taxes, penalties and assessments charged thereon, will be sold by Treasurer of -County, South Carolina, at his office in said county, on the second Tuesday (-th) of June, A. D. -, unless said taxes are syments and penalties be

Real property

Delinquen

APR 6 1977 A. D. 1868. paid before that time; and such sale will be continued from day to day until all of said parcels, lots and parts of lots of real estate shall be sold or offered for sale. - A. D. -Auditor of said County."

(

And said Auditor shall insert at the foot of the record of said delinquent list a copy of said notice, and certify to the correctness thereof, in what paper the same was published, when and how long, and sign the same officially.

property.

CVIII. The County Treasurer, or his deputy, shall attend at his office on Sale of real the second Tuesday of June, and then and there, after the hour of 10 o'clock in the morning, offer for sale, at public auction, each tract, parcel or lot of real estate described in the advertisement aforesaid on which the taxes. assessments and penalties charged thereon shall not have been paid; and the person then and there offering to pay the taxes, assessments and penalties charged theron for the least quantity thereof shall be the purchaser; and the Treasurer shall continue such sale, from day to day, until each tract, parcel or lot of real estate described in said advertisement, upon which the taxes, assessments and penalties shall not have been paid, shall be sold or offered for sale: Provided, That the sale thus made shall be denominated that on behalf the delinquent land sale: Provided, further, That if the land advertised for sale as aforesaid, except in incorporated cities and villages, cannot be sold for at least one fourth of its assessed value, the Auditor shall, on behalf of the State, purchase sufficient thereof, at that rate, to satisfy the amount of

of the State.

the taxes, assessments and penalties aforesaid. CIX. If the party purchasing any parcel of real estate at the sale mentioned in the preceding Section shall fail to pay the Treasurer immediately the amount of taxes, assessments and penalties charged thereon, the Treasurer shall immediately offer the same again for sale, as if no sale had been made; and the purchaser or purchasers so failing to make payment of said taxes, assessments and penaltics, shall forfeit and pay a penalty of fifty per cent. on the amount thereof, which shall immediately be charged on the duplicate of the county, by the County Auditor, against such purchaser or purchasers, and collected as taxes, and with like penalties for delinquency; and when collected one-half thereof shall be paid into the County Treasury, and the other half into the State Treasury.

Record of sales

CX. The County Auditor, or his Deputy, shall attend all sales of delinquent real estate made by the Treasurer of his county, and shall make a record of such in a substantial book, therein describing the several parcels offered for sale, as described in the advertisement aforesaid, and stating how much of each parcel was sold, and to whom sold; and if any parcel was offered for sale and not sold for want of bidders, or shall have been bid in on behalf of the State, he shall so enter it on record; and the County Auditor shall make out and certify a copy of said record, and forward the same to the Auditor of State, by the County Treasurer, at the time said Treasurer makes his annual settlement with the Auditor of State next after such sale.

arocceds of sales

CXI. All moneys received by the County Treasurer at any delinquent Distribution of land sales shall be distributed by the County Auditor to the several funds for which they were respectively levied. After deducting the expenses of the advertisement aforesaid, and the State's proportion paid into the State Treasury by the County Treasurer, at his next annual settlement with the Auditor of State after such sale.

CXII. If the County Auditor, by inadvertence or mistake, or any other cause, shall have heretofore omitted, or shall hereafter omit, to publish the delinquent list of his county, it shall be his duty, unless all taxes, assessments and penalties charged therein shall have been paid prior to the next July settlement thereafter of the County Tressurer, to charge the several parcels of real estate described in said list with said taxes, assessments and penalties, with the taxes, assessments and penalties of the year next succeeding such omission, and record, certify and publish the same as part of the delinquent list of such succeeding year, according to the provisions of

CXIII. Upon the payment of the proper amount into the County Treasury, and fifty cents to the County Auditor for the certificate, and ten cents for the transfer of each parcel of real estate purchased at delinquent purchase. land sale, the County Auditor shall give to each purchaser at such sale a certificate of purchase, in which he shall describe such parcel as the same was described in the delinquent list, and state when the same was sold and for what amount; and if only a part of any parcel advertised was sold, he shall specify the quantity sold, and authorize a surveyor, at the request of the purchaser, his heirs or assigns, to lay off, by metes and bounds, as near as lands. may be in a square form, at the most northwesterly corner of any tract or lot of land described in said certificate, the quantity so sold; and if the sale be made from any city, village or town lot, or any part thereof, the surveyor shall be directed to so lay off the quantity sold that the same shall extend from the principal street or alley forming the most convenient front to said lot to the rear of the lot, and to bound the same by lines as nearly parallel with the outlines of said lot as practicable.

CXIV. No deed shall be made for any real estate sold at delinquent land sale until the expiration of two years from and after such sale. any survey thereof required by any certificate of purchase be made until the expiration of the same period of time.

CXV. The certificate of purchase at any delinquent tax sale shall be assignable in law by endorsement thereon, and an assignment thereof shall purchase vest in the assignee and his legal representatives all the right and title of the original purchaser.

CXVI. All real estate which has been or may hereafter be sold for taxes, assessments and penalties at delinquent sale, under the laws of this State, may be redeemed at any time within two years from and after such sale, and all such real estate belonging at the time of such sale to minors, insane persons, married women, or persons in confinement, may be redeemed at any time within two years from and after the expiration of such disability.

CXVII. Any person or persons desiring to redeem any real estate sold at delinquent land sale, under any law of this State, may, within one year after demption. the sale thereof, or within one year after the expiration of the disabilities named in the preceding Section, deposit with the County Treasurer of the county in which such sale was made, upon the certificate of the County Auditor, a sum equal to the amount for which such real estate was sold, with all legal charges paid by the purchaser at such sale, and subsequent taxes paid by such purchaser, his heirs or assigns, and twenty-five per cent. penalty thereon, and the value of growing crops, if any there are, and two dollars to pay the expense of advertising as hereinafter provided; and any person desiring to redeem any such real estate after the expiration of one year, and

A. D. 1868. Omission to

Location of

Deeds.

Certificates

Redemption.

Mode

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A. D. 1868.

within two years after any such sale, or the removal of any of the disabilities aforesaid, may deposit with the County Treasurer aforesaid, on the certificate of the County Auditor, an amount of money equal to that for which such real estate was sold, and taxes subsequently paid thereon by the purchaser and those claiming under him the legal charges as aforcsaid, and fifty per cent. penalty thereon, and two dollars to pay the expense of advertising as aforesaid; also paying the Auditor fifty cents for his services in attending to such redemption in either case.

f : redemption.

CXVIII. All applications for the redemption of real estate sold at delin-Applications quent tax sale as aforesaid shall be made to the Auditor of the county in which such real estate shall have been sold by a party interested in the title to said estate; and upon such application the Auditor shall give to such party the certificate mentioned in the preceding Section, describing the real estate sought to be redeemed, and specifying the sum necessary for such redemption, and adding thereto the two dollars for expense of publishing the notice of such redemption, upon the presentation of which to the County Treasurer of the county, and payment of the sums mentioned therein into the County Treasury, the Treasurer shall give to the applicant duplicate receipts therefor, describing the property as described in said certificate of the Auditor; and upon the delivery of one of such receipts to the County Auditor, said Auditor shall immediately cancel the sale and transfer the property to the party redeeming the same; and such payment and cancellation shall operate as a release of all the rights of the purchaser at such sale, his heirs and assigns.

demption.

CXIX. The County Auditor, immediately upon the redemption of any Notice of re-real estate as aforesaid, shall publish in some newspaper of general circulation in his county for two consecutive weeks a notice addressed to the purchaser and his assigns that the money has been deposited in the County Treasury of his county for the redemption of such real estate, describing the same and the time when sold for taxes; for the publication of which notice said Auditor shall pay the sum of ten dollars out of the County Treasury.

common.

CXX. Any tenant in common way redeem his individual share in any real estate sold at delinquent land sale in the manner provided for in the preceding Sections, upon payment into the County Treasury of his equal proportion of the sum requisite for the redemption of the whole, and two dollars for the publication of the notice of such redemption.

tificates.

CXXI. Upon the demand of the purchaser or his legal representatives of Cancelling cor- any real estate redeemed as aforesaid, and the surrender of the certificate of purchase to the County Auditor, and payment of fifty cents to said Auditor for his services in attending to such redemption, the Auditor shall cancel said certificate of purchase, file the same in his office, and give to such purchaser or his legal representatives an order on the County Treasurer for the amount of money deposited in the County Treasury in manner afore said for the redemption of the real estate described in such certificate of purchase.

before the deed s made.

CXXII. Any person interested may, at any time before the deed is made, Redemption by the County Auditor, with the consent of the purchaser of any parcel of real estate sold at delinquent land sale, and the delivery and cancellation of the certificate of purchase, redeem such real estate; and in such case, and also upon deposit of money in the County Treasury as aforesaid for the rehttp://www.hathitrust.org/access

demption of any real estate sold at such sale, the County Auditor shall note such redemption or deposit, and by whom and when made, on the record of delinquent land sales, and sign his name officially thereto, for doing which any party redeeming by consent, as aforesaid, shall pay said Auditor fifty cents as his fees.

A. D. 1868.

CXXIII. After the lapse of two years from the time of any delinquent land sale, if any purchaser of any real estate at such sale, or his legal representatives, shall present to the Auditor of the county in which such sale was made a certificate of purchase of the whole of any tract or lot of real estate sold at such sale, or in case of the sale of part of a tract or lot offered at such sale, present to said Auditor the certificate of sale, and the survey and plat of the quantity purchased, made by the surveyor, as required by this Act, and the taxes and assessments levied on the real estate described in such certificate or certificate and plat shall have been so far paid as that the same is not again delinquent, said Auditor shall (upon payment to him of two dollars as his compensation therefor) make and deliver to such purchaser, his heirs or assigns, as the case may be, a deed of conveyance for the real estate so sold as aforesaid: Provided, That where the whole of two or more several tracts or lots, or parts of tracts or lots, of real estate have been or shall tracts in be sold to the same party, or the certificates of purchase of different tracts or lots, or parts of tracts or lots, have been or shall be legally acquired by one person, and the party thus purchasing or holding certificates as aforesaid shall demand one deed for the whole of the real estate so purchased, the County Auditor shall include the whole in one deed, if all the requirements of this Act have been complied with so that the party demanding such deed would be entitled to separate deeds for the said several parcels of real estate; and if the whole of any tract or lot of real estate has been acquired by one party by different purchases, or by assignments of certificates of purchase, the

Deeds to pur-

Two or more

grantee, his heirs and assigns, to the real estate therein described. CXXIV. Each tract or lot of land, or part thereof, or city, village or town lot or part thereof, which shall be offered for sale by the County Treasurer at any delinquent land sale, as provided for in this Act, and not sold to the State. for want of bidders, shall thereby become forfeited to the State of South Carolina, and thenceforth all the right, title and interest of the former owner therein shall be vested in the State of South Carolina, and shall be designated by the County Auditor on the list of delinquent lands as "forfeited" and transferred to the State of South Carolina, and charged with taxes and penalties as if the same was purchased by a private individual, and returned by the Treasurer as delinquent until sold as forfeited real estate.

survey and plat aforesaid shall be dispensed with and the deed made for the whole; and the deed so made by the County Auditor for any real estate sold

at delinquent land sale shall be prima facie evidence of a good title in the Prima facie evi-

CXXV. The County Auditor shall enter in a substantial book, to be provided by him for that purpose at the expense of the county, and denominated record. the "forfeited land record," a list of all real estate forfeited to or purchased in behalf of the State according to the provisions of this Act, certify to the correctness thereof, and sign the same officially, a copy of which list he shall certify and transmit to the Auditor of State, by the County Treasurer; at the time the Treasurer makes his annual settlement with the Auditor of State next after the forfeiture or purchase of such real estate, and the Auditor of State shall record the same in his office.

Lands forfeited

Minute

Liens.

deeds.

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A. D. 1868. CXXVI. The County Auditor of any county in which any real estate shall hereafter be sold at delinquent land sale shall make deeds therefor, Deeds for for- though the real estate may have been, or shall hereafter be, set off into feited lands. another county subsequent to such sale, and such deed shall have the same effect as if such real estate had remained in the county in which it was sold.

CXXVII. All real estate sold at delinquent land sale, under the provis-Transferred to ions of this Act, shall, immediately upon the certificate of purchase being purchaser. given therefor, be transferred by the County Auditor into the name of the

CXXVIII. The sale of any real estate at delinquent land sale shall not be Not invalid. held invalid on account of its having been charged on the duplicate in any

other name than that of the rightful owner.

CXXIX. If any certificate given at any sale of delinquent lands shall be Lost certification destroyed, upon satisfactory proof thereof to the proper County Auditor, he shall make to the party entitled thereto a deed for the real estate so sold, precisely as if such certificate of purchase had not been lost or destroyed.

CXXX. The County Auditor shall enter in his records of delinquent land of sales a minute of all deeds by him made in pursuance of any sales of real estate therein recorded, naming the party in whose name the same stood charged on the duplicate at the time of the sale, the date of the sale and name of the purchaser, a brief description of the real estate, the quantity sold, the amount for which the same was sold, the date of the deed, and the name of the grantee therein; also, a minute of all redemptions of any real estate so sold before any deed made therefor, with the date of redemption. and the name of the party redceming.

CXXXI. The purchaser of any interest of any tenant, in common in any Tenants in real estate, at any sale of delinquent lands, shall, on obtaining a deed therecommon. for from the County Auditor, hold the same with the other owners, as a tenant in common, and be entitled to a partition of the estate so held in com-

mon, as other tenants in common.

CXXXII. It shall be the duty of each owner of lands, and of any new New structures structures thereon which shall not have been appraised for taxation, to list the same for taxation with the County Auditor of the county in which they may be situate, on or before the twentieth day of October next after the same shall become subject to taxation.

CXXXIII. Every person shall be liable to pay taxes and assessments on Liability for the real estate of which he or she may stand seized for life, by courtesy, in dower, as husband in right of his wife, or may have the care of, as guardian, executor or trustee.

> CXXXIV. When any real estate shall be sold under any writ, order or proceeding in any Court, the Court shall, on motion of any person interested in the real estate, or in the purchase or proceeds of the sale thereof, order all taxes, assessments and penalties charged thereon to be paid out of the proceeds of such sale, as a lien thereon prior to all others.

CXXXV. All taxes, assessments and penalties legally assessed shall be Taxes to be considered and held as a debt payable to the State by the party against first lien-. whom the same shall be charged, and such taxes, assessments and penalties shall be a first lien against the estate of all deceased persons; against the estates of bankrupts and insolvents; against the assets and estates of all persons making assignments for the benefit of creditors; against all property

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held in trust; against all personal property held on chattel, mortgage or in pledge; against all personal property sold for the purpose of avoiding the payment of taxes; against all personal property held by parties in fraud of creditors; against all stocks of goods, implements, machinery and tools of merchants or manufacturers, as against purchasers of the whole of such stocks upon which the taxes have not been paid; and such taxes shall be first paid out of the assets of any estates of deceased persons, or held in trust as assignee or trustee as aforesaid, or proceeds of any property held on execution or attachment; and the County Treasurer may proceed by action at law against the parties holding property otherwise, as above mentioned; or if he can obtain the possession of the property, he may distrain and sell the same precisely as if the same had not been sold, mortgaged or pledged, as above mentioned.

CXXXVI. All executors, administrators, guardians, trustees, receivers, officers, husbands, fathers, mothers, agents or factors, shall be personally Executors &c liable for taxes. liable for the taxes on all personal property which they are required respectively to list for taxation by the provisions of this Act, and which was in their possession at the time when the return thereof for taxation shall have been made by themselves or the Assessors, and may retain in their hands a sufficient amount of the property or proceeds to pay such taxes for the entire year; and the County Treasurer may collect such taxes by any and all the means provided by this Act, either of the principal or beneficiary, or of the person so acting as executor, administrator, guardian, trustee, husband, father, mother, agent or factor, receiver or officer.

CXXXVII. If any action be prosecuted against the County Auditor or County Treasurer for performing or attempting to perform any duty enjoined upon them by this Act, the result of which action will affect the interests of the county, if decided in favor of the plaintiff in such action, such Auditor or Treasurer shall be allowed and paid out of the County Treasury reasonable counsel fees and other expenses for defending such action, and the amount of any damages and costs adjudged against him; which fees, expenses, damages and costs shall be apportioned ratably by the County Auditor among all the parties, except the State, interested in the revenue involved in said action; and if the State be interested in the revenue in said action, the County Auditor shall, immediately upon the commencement of said action, inform the Auditor of State of its commencement, of the alleged cause thereof, and the Auditor of State shall submit the same to the Attorney-General, who shall defend said action for and on behalf of the State: and if only some local levy made by township or other municipal authorities be involved in such suit, such township or other municipal authority shall employ and pay counsel, and all damages and costs recovered in such action; and the County Auditor or Treasurer, or both, if both be sued, may, by cross petition, answer or motion in Court, cause the township trustees or other local or municipal authorities interested in the revenue involved in the action to be made parties thereto, (if not already parties,) and the Court in which such action may be pending shall cause trustees or other local or municipal authorities to be made parties to such action, and render judgment for any damages and costs which may be found in favor of the plaintiff against said township trustees or other municipal or local authorities, and not against said Auditor or Treasurer.

CXXXVIII. Each County Auditor shall answer in writing all inquiries

A. D. 1868.

Executors, &c ,

Suits against county officers.

propounded to him by the Auditor of State touching the condition and A. D. 1868. value of the real e-tate of his county, and changes made in the valuations Answers in thereof in the different townships, towns, villages, cities, wards and other writing. districts; also as to the valuations of the different classes of personal pro perty for taxation as compared with their market value, and in relation to any and all matters which the Auditor of State may deem of interest to the rublic, or of value to him in the discharge of his duties as Auditor of State.

CXXXIX. The District Assessors provided for in this Act shall each re-Pay of District ceive three dollars per day for his services for each day he shall be actually Assessors. employed in the performance of the duties enjoined upon him by this Act, to be paid out of the County Treasury, on the warrant of the County Auditor, upon filing with said Auditor a sworn statement of his account for such service.

CXL. Each member of the State Board of Equalization, except the State of officers in said Board provided for in the sixty seventh Section of this Act, State pay of Board of Equalshall receive three dollars per day for each day he shall be employed in perization. forming the duties enjoined upon him by this Act, and ten cents per mile for traveling to, and the same for returning from, the seat of Government, to be computed by the most usually traveled route, and paid out of the State Treasury, on the warrant of the Auditor of State.

CXLI. Each member of the City Boards of Equalization, provided for City Boards of by this Act. shall receive for his services for each day actually employed in Equalization. performing the duties enjoined upon him by this Act, three dollars per day, to be paid out of the County Treasury, on the warrant of the County Auditor.

CXLII. Every County Auditor, County Treasurer, District Assessor, for township, ward or city Assessor, who shall, in any case, refuse or knowingly neglect to perform any duty enjoined on him by this Act, or who shall consent to, or connive at, any evasion or violation of any of the provisions of this Act, whereby anything required to be done by any of said provisions shall be hindered or prevented, or whereby any property required to be listed for taxation shall be unlawfully exempted, or the valuation thereof be entered on the return for taxation, or on the duplicate, at less than its true value, estimated according to the rules prescribed by this Act, or any tax, assessment or penalty shall not be collected, shall be deemed guilty of an offence, and upon indictment and conviction thereof, shall be fined in any sum not exceeding two thousand dollars, and imprisoned in the penitentiary for a term not less than one or more than three years.

CXLIII. Each Assessor is hereby authorized to administer all oaths no-Administration cessary to be taken by any one in the assessment and return of property for taxation, or necessary in the performance of any duty enjoined upon Assessors by law.

CXLIV. Each district, township, city or ward Assessor who shall deem As- it necessary to enable him to complete the listing and valuation of real and personal property within the time prescribed by law, may, with the written consent and approval of the County Auditor, appoint an assistant, and assign such assistant to duty to such part of his township, district, city or ward as such Assessor shall designate; and such Assistant Assessor shall be under the control of the Assessor so appointing him, and the latter shall be responsible for his conduct; and upon such Assistant Assessor giving bond and taking an oath of office the same as an Assessor, to the satisfaction of

of oaths.

Assistant

\$666075.

the County Auditor, he shall be authorized to perform all the duties en-

ioined upon Assessors by law.

CXLV The Governor is hereby authorized, by and with the advice and consent of the Senate, to appoint the State Auditor, County Auditor, of officers. County Treasurer and Assessors required to perform the duties prescribed in this Act, and to require such bonds from said officers as he may deem necessary; and he is also authorized, during the current year, to increase the number of Assessors, if he may deem it necessary to accomplish the assessment within the time required in this Act.

CXLVI. If the Senate is not in session when a vacancy occurs in any of said offices, then the Governor shall fill such vacancy by appointment, and the officers thus appointed shall continue in office until the expiration of the next term of the General Assembly; and if they shall be confirmed by the Senate, they shall continue in office until the expiration of the regular term and their successors are appointed and qualified.

CXLVII. If any of the duties required to be performed in this Act on or before a certain day by any officer herein named cannot for want of proper Etime. time be so performed, the State Auditor, with the approval of the Governor, upon proper evidence of the necessity of the same, may extend the time as

long as may be necessary therefor.

CXLVIII. There shall be printed, in pamphlet form, fifteen hundred copies of this Act for general circulation, and for the benefit of the officers copies. created under the provisions of this Act, together with such regulations and forms as may be established, the whole to be under the direction of the State Auditor.

CXLIX. All Acts or parts of Acts inconsistent with this Act are hereby repealed

CL. This Act shall take effect from its passage.

In the Senate House, the fifteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO INCORPORATE THE WANDO MINING AND MANUFACTURING COMPANY.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolins, now met and sitting in General Assembly, and by the authority of the same, That John R. Dukes, T. C. H. Dukes, Q. M. Carson, T. R. Smith, B. C. Ebaugh, St. Julien Ravenel, Samuel Lord, W. B. Dingle, J. W. Carmalt, Lewis D. Mowery, H. J. Pelzer and W. G. Whilden, and that their associates and successors are hereby made and created a body politic and corporate in law, for the purpose of carrying on any kind of manufacturing, mining or chemical business, with a capital of one hundred thousand dollars, to be divided into one thousand shares of one hundred dollars each.

II. The said company shall have power, from time to time, to increase

Appointm e n

A. D. 1808.

In the absence

Corporators.

No. 22.

Capital.

A. D. 1868.

their capital stock to any amount not exceeding five hundred thousand dollars, including their present capital stock, whenever a majority of the stockholders present at any general meeting, or the Board of Directors by their authority, shall determine. And such additional stock shall be divided exactly among the stockholders in proportion to their shares in the capital stock of the company at the time of such increase; but in case any stockholder should not desire to take his or her proportion of such increased stock, the same shall be allotted among the remaining stockholders, or books may be opened for the purpose of obtaining additional subscribers to such increased stock, in such manner as the company may deem expedient; and in no case shall the members who are unwilling to take their proportion in such increase of stock be assessed to contribute or to make up such increase; such additional steek shall be subject to all the same provisions, restrictions and conditions as are directed by the provisions of this Act, and any such additional subscribers shall thereby become members of this company, and subject in like manner in proportion to their interests to all the burthens, liabilities, responsibilities and conditions imposed upon the members of this company.

pstalments

III. That if the proprietor of any share shall neglect to pay any instal-Neglect to pay ment assessed thereon for the space of thirty days after the time appointed for the payment thereof, the Treasurer of the company, by the order of the Directors, may sell by public auction a sufficient number of shares standing in the name of such stockholder to pay all the instalments then due from The Treasurer shall give notice him, with all necessary incidental charges. of the time and place of sales, and of the sum due, by advertising the same three weeks successively before the sale in one of the Charleston newspapers; and a bill of sale of the share or shares so sold, made by the Treasurer, shall transfer said stock to the purchaser, who shall be entitled to a certificate

stockholders.

IV. That every shareholder of the said company shall be individually Liability of liable for all debts contracted during the time he or she shall be a shareholder in the said company to the extent of the par value of his or her shares in the same: Provided, That no person holding stock in the said company as executor, administrator, guardian, or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estate and funds in the hands of such executor, guardian or trustee shall be liable in like manner and to the same extent as the testator or intestate, or the ward or person interested in such manner, and to the same extent as the testator or intestate, or the ward or person interested in such trust fund, would have been if he had been living and competent to act and hold the said stock in his own name: And provided, further. That no stockholder shall be personally liable for the payment of any debt contracted by the said company which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against said company within one year after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in said company for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in said company, nor until an execution against the company shall have been returned unsatisfied, in whole

A. D. 1868.

Power to ap-

V. That the said company shall have such number of officers as shall be ordained and chosen by the rules and by-laws to be made for their government and direction, and shall have power and authority to make all rules point officers. and by-laws not repugnant to the laws of the land, to regulate the issue of script and transfer of shares, to have and to keep a common seal, and the same to alter at will, to sue and be sucd, plead and be impleaded, in any Court of law or equity, to purchase, take and hold, sell and claim, in fee simple, or for any less estate, lands, tenements, hereditaments, goods, chattels, rights and credits which may be connected with, or in any manner conducive to, the purpose for which said company is established, to dig and mine for earths, marls, rocks and minerals, to manufacture the same, and such other materials as they may purchase, into chemicals, acids and fertilizers, to carry on trade therein, and to cultivate such lands as may be

VI. That this Act shall be deemed and taken to be a public Act, and

shall continue of force for thirty years.

In the Senate House, the seventeenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Schate.

purchased by the said company for the purposes aforesaid.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO PROVIDE TRANSPORTATION FOR CONVICTS DISCHARGED FROM THE STATE PENITENTIARY.

No. 23.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That whenever a convict shall be discharged from the To be furnished Penitentiary it shall be the duty of the Superintendent to furnish such con-transportation vict with a suit of common clothes, if deemed necessary, and transportation from the Penitentiary to his home, or as near thereto as can be done by public conveyances.

II. That the cost of such transportation and clothes shall be paid at the Treasury, on the draft of the Superintendent, countersigned by the Comptroller-General

In the Senate House, the seventeenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO EXTEND THE TIME FOR OFFICERS TO QUALIFY.

No. 24.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all officers heretofore elected be, and are time.

A. D. 1869. hereby, allowed until the first day of January, 1869, to qualify and enter upon the duties of their respective offices; and on failure to qualify within In case of fail- the above specified time, their respective offices shall be declared vacant by the Governor.

II. That in all cases where the County Commissioners refuse to approve Bonds not ac the bonds of any county officers, the said officers may refer the same to the cepted referred to Attorney-Gen- Atterney-General, and if approved by him, shall be accepted by the County Commissioners

> III. That all Acts and parts of Acts inconsistent with this Act are hereby suspended until after the first day of January next, except the Act to organize the Supreme Court.

In the Senate House, the seventeenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K SCOTT, Governor.

AN ACT TO ENABLE THE CHATHAM RAILROAD COMPANY TO EXTEND No. 25. THEIR ROAD TO COLUMBIA...

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Chatham Railroad Company, a corporation created by the laws of the State of North Carolina, be, and the same is hereby, declared and constituted a body politic and corporate, by the said name, under the laws of this State, with the general rights, powers and privileges usually incident to such corporations.

rusal.

II. That the Chatham Railroad Company shall have power to extend their road, with one or more tracks, from the point where their road shall reach Power to locate the dividing line between the States of North and South Carolina through or near the corporate limits of the towns of Cheraw and Camden to the city of Columbia, by a route to be selected by the said company, and shall have the privilege of using any portion of their road before the whole is completed.

III. That the company hereby created shall have all the powers, rights and privileges granted by the charter, and amendments thereto, of the Northeastern Railroad Company to that company, subject to the conditions therein contained, except in so far as the special provisions of this Act may require the same to be modified, varied or abrogated.

IV. Whenever, in the construction of said railroad, it shall be necessary Crossing of ea- or desirable to cross or intersect any established road or way, it shall be the tablished roads duty of the said company so to construct their railroad across such established road or way as not to impede the passage of persons or property along And in case it should become necessary or desirable to occupy any such established road or way, it shall be lawful for the said company to change such road or way, at such points as may be deemed expedient by the

company; and that, for entering upon, and taking any land that may be necessary therefor, the said company is hereby vested with the same powers as are herein given for the entering upon and taking of any land which may be necessary for the construction of the said railroad: Provided, That previous to the making of any such change, the said company shall make and prepare for travel a road equally good with the portion of the road so occupied; but nothing herein contained shall be so construed as to require the company to keep in repair any portion of any road which may have been

changed as aforesaid.

V. The said company, by its officers, agents and employees, shall have full power to enter upon all lands and tenements, through or over which they may desire to construct the said railroad, and to lay out the same according to their pleasure, so that the dwelling house, yard, garden or graveyard of no person be invaded without his consent, and in like manner shall have power to enter upon and lay out such contiguous lands as they may desire to occupy as sites for depots, toll houses, warehouses, engine sheds, workshops, water stations, and other buildings for the necessary accommodation of their officers, agents and employees, their horses and other animals, and for the protection of property entrusted to their care: Provided, however, That the land so laid out on the line of said railroad shall not exceed, except at deep cuts and fillings, one hundred feet on each side of the centre of the track of said road, and at such deep cuts and fillings shall not exceed a width sufficient for the construction of the banks and deposits of waste earth, and the adjoining lands for the sites of depots and other buildings shall not exceed ten acres in any one place, unless the company can agree with the owner for the purchase of the same. In case the said company shall, from any cause, be unable to obtain land or right of way as aforesaid by agreement with the owner or owners of the land, then the said company shall be authorized to take the same at a valuation to be fixed in the same way as is provided in a charter of the Northeastern Railroad Company, subject however to the provisions of an Act entitled "An Act to declare the manner by which the lands of persons or corporations may be taken for the construction and uses of railways and other works of internal improvement."

VI. The said company shall have the exclusive right of conveying and transporting persons and property over said railroad at such charges as may porting persons and property.

be established by a majority of the Board of Directors.

VII. Suits shall be commenced against said company by service of process on the President, Superintendent, or principal agent at Cheraw or Columbia, or at any other place in the State, where they or either of them may be found.

VIII. The said company shall have power to purchase, hold and convey land in this State to any amount, not exceeding twenty thousand acres at lands. any one time.

IX. That the railroad hereby authorized to be constructed shall be com- Time to commenced within one year, and completed within five years, from the ratifica-mence and comtion of this Act, or this charter shall be forfeited.

X. That this Act shall be deemed and taken to be a public Act, and shall continue in force for the term of ninety nine years from its ratification, and tinuance. shall in nowise be subject to the provisions of the forty-first Section of an Act entitled "An Act to incorporate certain villages, societies and companies. and to renew and amend certain charters heretofore granted, and to estab-

A. D. 1868.

Right to enter

Snite

plete the road.

Term of con-

STATUTES AT LARGE

A. D. 1868.

lish the principles on which charters of incorporation will hereafter be granted," ratified the seventeenth day of December, A. D. 1841.

In the Senate House, the seventeenth day of September. in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

- No. 26. AN ACT to amend an Act entitled "An Act to authorize a loan to REDEEM THE OBLIGATIONS KNOWN AS THE BILLS RECEIVABLE OF THE STATE OF SOUTH CAROLINA "
- I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Taxes pledged authority of the same, That the fourth Section of an Act entitled "An Act to authorize a loan to redeem the obligations known as the Bills Receivable of the State of South Carolina" be amended by inserting at the end of said Section the following words, to-wit: "and the taxes which shall be collected by the State are hereby pledged for the payment of the principal and interest of the said bonds."

In the Senate House, the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

- AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO ORGAN-No. 27. IZE THE CIRCUIT COURTS."
- I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Fourth Circuit. authority of the same, The Counties of Chesterfield, Marlboro, Marion, Darlington and Fairfield shall constitute the fourth Circuit.

The Counties of Kershaw, Richland, Newberry and Lexington shall con-Fifth Circuit. stitute the fifth Circuit.

II. The Circuit Courts in the County of Fairfield shall hereafter be held Time and place at Winnsboro on the second Monday of March, July and November; and otholding Courts the Court of Common Pleas at Winnsboro on the first Wednesday after the second Monday of March, July and November.

> The Circuit Courts in the County of Kershaw shall hereafter be held at Camden on the first Monday of January, May and September; and the Court of Common Pleas at Camden on the first Wednesday after the first Monday of January, May and September.

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III. Pe it further enacted, That so much of an Act entitled "An Act to organize the Circuit Courts" as is inconsistent with this Act be, and the same is hereby, repealed.

A. D. 1868.

In the Senate House, the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO ORGANIZE THE SUPREME COURT.

No. 28.

I. Be it enucted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The Supreme Court shall hold annually at the seat of court. Government two sessions; the one commencing on the fourth Tuesday of November, and the other the first Tuesday of April. It shall be the duty of all the Justices to be present, and the Chief Justice shall preside. the absence of the Chief Justice, the Justice oldest in commission shall

II. If at any stated term of the Supreme Court two Justices thereof shall not attend on the first day of the term, the Justice that may attend shall have authority to adjourn said Court from day to day, for ten days after the time appointed for the commencement of said term, unless two Justices shall sooner attend; and the business of said Court shall not in such case be continued over to the next stated term thereof until the expiration of said ten days.

Adjournments.

III. The Justices of the Supreme Court shall qualify in five months after the date of their election, by taking the oath prescribed by the thirtieth Section of Article II of the Constitution, or the office be declared vacant by the Governor, and shall enter forthwith upon the duties of their offices; such oath of office shall be administered to the Justices chosen at the first election, if qualified under the Constitution, by the Governor of the State; and when such Justices shall be chosen at any subsequent election, such oath shall be administered in like manner, and under like conditions and limita-

To qualify.

Oath of office.

tions, by a Justice of said Court. IV. The Supreme Court shall be a Court of record, and the books of record thereof shall, at all times, be subject to the inspection of the citizens of the State, or other persons interested. The Clerk of said Court shall have the custody and keeping of its records, and shall furnish certified copies thereof to persons desiring the same, upon the payment of the fees prescribed by law. Said records shall be kept in the manner prescribed, from time to time, by the Justice of the Court.

Court of record.

V. All books of record, all files, and all property of the Court of Appeals, of Law and Equity, and of the Court of Errors, existing under the cords. ate Provisional Government of South Carolina, shall be transferred to the Supreme Court, and all causes pending in Courts under the laws of said Provisional Government shall have day, be heard, tried and determined in the Supreme Court without change of process or form of procedure, with all rights respected and preserved; and all processes and recognizances of every

10

A D. 1868. kind, whether respecting bail, bonds, costs or otherwise, which relate to said causes, shall be considered as belonging to said Court in the same manner as if they had been issued or taken in reference thereto.

VI. Each of the Justices of the Supreme Court shall have power to ad-To issue writs. minister oaths, issue writs of injunction. mandamus, quo warranto, habeas corpus, and other remedial writs, according to the principles and course of common law heretofore existing in the State of South Carolina, which is hereby declared to be of force so far as applicable and not inconsistent with the Contstiution, subject, on motion of either party, to re-examination, affirmance or reversal, and final adjudication by the proper jurisdiction.

VII. The Sheriff of Richland County shall attend every session of the Sheriff Rich-Supreme Court to perform such official service as by the said Court shall land County. be required, and he shall be allowed and paid therefor at the rate of five dol-

To procure ac- lars per day. Said Sheriff shall, under the direction of the Chief Justice. commodations. secure a suitable room in which to hold said Court, and offices for use of the same, and provide necessary furniture, printing, blank books, stationery, fuel and lights; and the accounts and vouchers for all of said expenditure and service shall be certified to under outh by said Sheriff, approved by the Chief Justice, audited by the Comptroller-General, and paid by the Treasurer of the State, out of any funds not otherwise appropriated.

VIII. A special term of the Supreme Court shall be held in the city of Columbia on the third Monday in September, A. D. 1868, at 12 o'clock M. of that day, or as soon thereafter as practicable, at which term said Court shall have authority to transact any business pertaining thereto, which, in

their judgment, may require dispatch.

IX. All Acts and parts of Acts inconsistent with this Act, or supplied by it, are hereby repealed.

In the Senate House, the eighteenth day of September, in the year of our Lord one 'housand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. Scott, Governor.

No. 29.

charter.

Special term.

AN ACT TO EXTEND THE CHARTER OF KINSLER'S FERRY.

I. Be it enacted by the Senate and House of Representatives of the State Extension of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the charter heretofore granted to William Kinsler, Edward Kinsler and H. O. Kinsler to establish a ferry over the Congaree River, near the city of Columbia, be, and the same is hereby, extended for the term of fourteen years from the expiration of said charter, with authority to charge the same rates of toll as now allowed by law: Provided, Suitable boats and appliances The said William Kinsler, Edward Kinsler and H. O. Kinsler, their heirs to be provided. or assigns, shall keep one or more good substantial ferry boats, together with a suitable rope or chain or such other contrivance as will ensure prompt and safe transportation across said stream.

> In the Senate House, the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

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AN ACT FOR THE PRESERVATION OF THE STATE CAPITOL.

A. D. 1868.

No. 30.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That His Excellency the Governor be authorized to Governor at thorized to invite the same of the same o invite proposals for repairing the roof of the State Capitol, and for closing proposals and securing the doors and windows, so as to prevent further injury and deterioration of the building, and to enter into a contract with the lowest and best bidder for the execution of the work.

In the Senate House, the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE No. 31. THE AIR LINE RAILROAD COMPANY IN SOUTH CAROLINA."

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the of South Carolina, now met and sitting in General Assembly, and by the countries of authority of the same, That from and after the passage of this Act, it shall seribe to capit be lawful for any county, town or city in this State interested in the constructions. tion of the Air Line Railroad in South Carolina, or any branch thereof, to subscribe to the capital stock of said company, or of any company with which it may consolidate or unite, such sum, and to be payable in such manner as the people or the proper authorities of such county, town or city shall deem best, determine and authorize; and said company is hereby further authorized to receive subscriptions to its capital stock in lands or labor, as may be agreed upon between said company and such subscribers; and for the purpose of facilitating the early and economical construction and equipment of its road and works for use, may acquire, receive, by grant, purchase, lease or otherwise, any estate whatsoever, and the same hold, use, sell, convey and of property. dispose of, as the interests of said company may require, and may create and issue, as far as may be necessary, in payment for construction, material, or other costs and needful expenditures of said company, a preferred stock, in such form as may be determined by the management of the company, to an amount not exceeding one million of dollars, to be held as a part of the authorized capital stock of said company, and the same, or any portion thereof, to dispose of as the interests of said company shall require.

Right to a

Be it further enacted, by the authority aforesaid, That the said Air Line Railroad Company in South Carolina shall have authority to locate and construct its works from any point on the Savannah River at which the road Georgia Air Line Road may strike the same, thence along the most feasible route, to be by them selected, over the territory of this State, to such point on the line of the State of North Carolina as the company may select; and if said company shall (as authorized by its charter) consolidate or unite with any other company or companies, it may adopt such other or modified

A. D. 1868. corporate name, and increase or diminish the number of directors now provided for, as shall be deemed best and agreed upon by such companies.

> In the Senate House, the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MUSES, JR., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

No. 32. AN ACT to define the jurisdiction and regulate the practice of PROBATE COURTS.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by Conrt each the authority of the same, In pursuance of Section 20 of Article IV of lished in county. the Constitution, a Court of Probate is hereby established in each of the several counties in the State, which shall hold a session on the first Monday Sessions. of each month at or near the court house, and continue thereafter so long as the business may require.

II. The Court of Probate shall be a Court of record, and have a seal, court of record may appoint a Clerk, and may remove him at pleasure, and on failure of the Court to appoint such Clerk, the Judge of the Court may perform all the Clerk.

duties of Clerk.

III. The Clerk of the Court of Probate shall keep a true and fair record Duties of. of each order, sentence and decree of the Court, and of all other things proper to be recorded; and on the legal fees being paid, shall give true and attested copies of the files and proceedings of the Court. All copies so attested shall be legal evidence in the Courts of this State.

IV. Every Judge of Probate, in his county, shall have jurisdiction in all Jurisdiction of matters testamentary and of administration in business appertaining to mi-Judges. nors and the allotment of dower, cases of idiocy and lunacy, and persons

non compotes mentis.

V. The Judge of Probate shall have jurisdiction in relation to the ap-In relation to pointment and removal of guardians of minors, insane and idiotic persons, guardians. and persons non compotes mentis, and in relation to the duties imposed by law on such guardians, and the management and disposition of the es-He shall exercise original jurisdiction in relation to tates of their wards. trustees appointed by will in cases prescribed by law.

VI. He may exercise jurisdiction of all petitions for partition of real es-In relation to tate where no dispute exists in relation to the title thereof; and when the title and partition of real estate is disputed, he shall refer the same to the Circuit

Court for adjudication, unless the parties shall consent to his determination Probate of wills of the same. The probate of the will and the granting of administration of the estate of any person deceased shall belong to the Judge of Probate for the county in which such person was last an inhabitant; but if such person was not an inhabitant of this State, the same shall belong to the Judge of Probate in any county in which the greater part of his or her es-

VII. All proceedings in relation to the settlement of the estate of any

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person deceased shall be had in the Probate Court of the county in which his will was proved or administration of his estate was granted.

VIII. All proceedings in relation to the property or estate of any person under guardianship shall be had in the Court of Probate of the county in guardianship. which the guardian was appointed.

Judges not to

IX. No Judge of Probate shall act as such in the settlement of any estate wherein he is interested as heir or legatee, executor or administrator, or act when interus guardian or trustee of any person; in every such ease the Judge of Pro-ested. bate of any adjoining county shall have jurisdiction, and it shall be his duty, upon application, to attend at some term of the Court of Probate in which such case may be pending, which shall not interfere with the duties in his own county and hear and determine such case.

X. The Judge or Clerk of the Probate Court shall have power to administer all oaths necessary in the transaction of business before the Probate minister oaths. Court, and all oaths required by law to be administered to persons executing trust under the appointment of said Court.

XI. Probate Courts may issue all warrants and processes in conformity to Issue warrants the rules of law which may be necessary to compel the attendance of wit and processes. nesses, or to carry into effect any order, sentence or decree of such Courts,

or the powers granted them by law.

XII. If any person shall refuse or neglect to perform any order, sentence In cases of conor decree of a Probate Court, such Court may issue a warrant, directed to tumacy. any Sheriff or Constable in the State, requiring him to apprehend and imprison such person in the common jail of the county; and if there be no jail of the county, then in the jail of the adjoining county, until he shall perform such order, sentence or decree, or be delivered by due course of

XIII. When a witness whose testimony is necessary to be used before any Probate Court shall reside out of this State, (or more than thirty miles from mony. the place of holding Court,) or by reason of age or bodily infirmity shall be unable to attend in person, the Court may issue a commission to one or more competent persons to take the testimony of such witness; and depositions taken according to the provisions of the law for taking depositions to be used on the trial of civil causes may be used on the trial of any question before the Probate Court where such testimony may be proper.

XIV. When any Probate Court shall have first taken cognizance of the settlement of the estate of a deceased person, such Court shall have juris-risdiction. diction of the disposition and settlement of all the estate of such deceased

person to the exclusion of all other Probate Courts.

XV. The jurisdiction assumed by any Probate Court in any case, so far as it depends on the place of residence or the location of his estate, shall not be contested in any suit or proceeding whatever, except in an appeal from tested. the Probate Court in the original case, or when the want of jurisdiction appears on the record.

XVI. When by law a guardian is required to be appointed of a minor, who is interested as heir or legatee, or representative of such heir or legatee, Guardian who is interested as heir or legatee, or representative of such heir or legatee, Guardian shall be an when interested in any estate which is in a course of settlement, such guardian shall be appointed by the Probate Court for which such estate is in course of settlement; but afterwards, if the minor shall reside in another county, and is of seded. the age of fourteen years, he may choose and have a guardian appointed in the county where he shall reside; and in that case the powers of the first

A. D. 1568. guardian shall cease. In all other cases guardians shall be appointed by the Probate Court of the county where the persons for whom the guardian shall be appointed shall reside.

Jurisdiction of ward's estate.

XVII. The Probate Court by which a guardian shall be appointed shall have jurisdiction of the estate of the ward, and shall be alone authorized to permit the sale of such estate, and settle such guardian's accounts.

XVIII. Except as provided in the first Section, the Probate Court in each Times and places for holding county shall appoint such times and places for holding courts as shall be Court. judged most convenient for all persons interested, and shall give notice of such times and places in one or more newspapers circulating in the county.

XIX. The Probate Court shall be deemed open at all times for the trans-Open at all times. action of ordinary business, which may be necessary when previous notice is not required to be given to the persons interested.

Court may be adjourned. By the Clerk

XX. A Probate Court may be adjourned as occasion may require; and when the Judge is absent at the time for holding a Court the Clerk may adjourn it.

Circuit Court appellate jurisliction.

XXI. The Circuit Court shall have appellate jurisdiction of all matters originally within the jurisdiction of the Probate Court.

Jurisdiction of Supreme Court.

XXII. The Supreme Court shall have jurisdiction of all questions of law arising in the course of the proceedings of the Circuit Court in probate matters, in the same manner as provided by law in other cases.

XXIII. Any person interested in any order, sentence or decree of any Probate Court, and considering himself injured thereby, may appeal there-Persons ag - Fronte Court and Countries of the griered may ap- from to the Circuit Court in the same county, at the stated session next after peal to Circuit such appeal, and such appeal shall be granted by the Probate Court, if application be made and filed in the Clerk's office within fifteen days from the date of the decision appealed from.

XXIV. In all cases of appeal from the proceedings of the Probate Court, In cases of ap-before such appeal shall be allowed, the person appealing shall give a bond to the satisfaction of the Probate Court, with a condition that he shall prose-Shall give cute such appeal to effect, and pay all intervening damages and costs occabonds to prose-sioned by such appeal

 ${f XXV}.$ In all cases of appeal the appellant shall file in the Probate office Grounds of ap- his grounds of appeal, and cause a copy thereof to be served on the adverse party at least twelve days before the time when the appeal is to be entered in the Circuit Court.

XXVI. The person appealing shall procure and file in the Circuit Court Certified copies to which such appeal is granted a certified copy of the record of the proof record to be filed. ceedings appealed from, of the application and grounds for the appeal filed in the Probate Court, and of the allowance of the same, together with the proper evidence that notice has been given to the adverse party according to law.

XXVII. When an appeal, according to law, is allowed by the Probate Proceedings to stayed in Court, all proceedings in pursuance of the order, sentence or decree appealed cases of appeal. from shall cease until the judgment of the Circuit or Supreme Court is had; but if the appellant, in writing, waives his appeal before the entry thereof, proceedings may be had in the Probate Court as if no appeal had been taken.

Proceedings in XXVIII. When such certified copy shall have been filed in the Circuit Circuit Court. Court, such Court shall proceed to the trial and determination of the ques-

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tion according to the rules of law; and if there shall be any question of fact or title to land to be decided, issue may be joined thereon under the

direction of the Court, and a trial thereof had by jury.

XXIX. The Circuit Court or Supreme Court, as the case may be, may tax costs for the party who shall prevail; or when, in the opinion of the Court, justice shall require it, the Court may deny such costs, and may tax costs for either party; and if costs be taxed against an executor or administrator, the same shall be allowed to him in his administration account.

XXX. If the person appealing from the proceedings of the Probate Court, as provided in this Act, shall neglect to enter his appeal, the Circuit ter appeal. Court to which such appeal shall be taken, on motion, and producing attested copies of such appeal by the adverse party, shall affirm the proceedings sppealed from, and may allow costs against the appellant.

XXXI. The final decision and judgment in cases appealed, as hereinbefore provided, shall be certified to the Probate Court by the Circuit Court or Supreme Court, as the case may be, and the same proceedings shall be to be certified. had in the Probate Court as though such decision had been made in such

Probate Ccurt.

XXXII. No Judge of any Probate Court shall be admitted to have any voice in judging or determining any appeal from his decision, or be permitted to act as attorney or counsel thereon, or receive fees as counsel in any pate in the promatter pending in the Probate Court of which he is Judge: Provided, It ceedings. shall be lawful for Judges of Probate to practice law in other Courts in such cases as are not cognizable in Court of Probate.

XXXIII. All proceedings in the Court of Probate shall be commenced by petition to the Judge of Probate for the county to whom the jurisdiction be of the subject matter belongs, briefly setting forth the facts or grounds of by petition.

the application.

XXXIV. The Supreme Court may, from time to time, make rules regulate ing the practice and conducting the business in the Courts of Probate in all may make rules. cases not expressly provided for by law.

XXXV. The County Commissioners of each county shall provide all books necessary for keeping the records, and all printed blanks and station-provided. ery used in proceedings in the Courts of Probate; also, a seal and necessary

office furniture.

XXXVI. The Judge may keep order in Court, and punish any contempt Can punish of his authority in like manner as such contempt might be punished in the contempts.

Circuit or Supreme Court.

XXXVII. When costs are awarded, to be paid by one party to the other, in the Courts of Probate, said Courts may issue execution therefor in like costs manner as is practiced in the Courts of common law; and when no form for a warrant or process is prescribed by statute or rules of Court, he shall frame one in conformity to the rules of law, and the usual course of proceedings in this State. Any Sheriff or Constable in the State shall execute the orders or processes of said Court in the same manner as the orders or processes of the Circuit or Supreme Courts.

The Judge of the Probate Court may commit to the Luna-XXXVIII. tic Asylum any idiot, lunatic or person non compos mentis, who, in his opinion, May commit is so furiously mad as to render it manifestly dangerous to the peace and Lunatic Asylum safety of the community that he or she should be at large; and also, in all such other cases provided by law. In all cases the Judge shall certify in

A. D. 1868.

Tuxing costs

Proceedings to

A. D. 1868. what place the said person or persons resided at the time of the commitment, and such certificate shall be conclusive evidence of such residence.

XXXIX. All laws and parts of laws of the late Provisional Government Laws of Pro- of South Carolina relative to the powers, duties, and course of procedure of visional Government applicable the Courts of Ordinary and Equity, as far as the jurisdiction of said Courts is to be retained. herein conferred on the Courts of Probate, not inconsistent with the Constitution and this Act, or supplied by it, are hereby adopted and declared to Files and ro- be of force, and applicable to the Courts of Probate. All files, records and cords to be trains property of, or pertaining to, said Courts of Ordinary are forthwith, upon the qualification of the Judges of Probate elected in the several counties, required to be transferred to the Courts of Probate established by this Act for A receipt shall be given for said records and property by the said counties.

terred.

In the Senate House, the twenty-first day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MCSES, Jr., Speaker House of Representatives.

several Judges of Probate, and a copy thereof shall be entered upon the

Approved: Robert K. Scott, Governor.

records of their respective Courts.

No. ${f 33.}$ \cdot ${f AN}$ \cdot ${f ACT}$ to amend the charter of the Cheraw and Coalfields RAILBOAD COMPANY.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Charter amend authority of the same, That the charter of the Cheraw and Coalfields Railed. road Company be, and the same is hereby, so altered and amended as to authorize said company to construct their railroad from the town of Cheraw to some point to be selected by said company on the North Carolina line, with a view to the extension of said road in the direction of Salisbury, North Carolina.

Gauge

II. That the aid granted to said company by an Act entitled "An Act Aid confirmed to grant the aid of the State to the Cheraw and Coalfields Railroad Company," ratified the sixth day of February, A. D. 1863, be, and the same is hereby, granted and confirmed to said company as changed by this Act upon the same terms and conditions as are specified in said Act.

III. That the name of the said company be, and the same is hereby, of changed from that of the Cheraw and Coalfields Railroad Company to that Change mame. of the "Cheraw and Salisbury Railroad Company."

IV. That the said company be, and the same is hereby, allowed to construct their road of such gauge as may be deemed desirable by the said com-

 ${f V}.$ That the said company shall be allowed further time, to-wit: one year Time extended.

to commence the work and five years, from the ratification of this Act, to complete their road. VI. That the charter of the said company as herein and heretofore

amended shall in no wise be subject to the provisions of the forty-first Section of an Act entitled "An Act to incorporate certain villages, societies

use#pd-google http://www.hathitrust.org/access and companies, and to renew and amend certain charters heretofore granted, and to establish the principles on which charters of incorporations will hereafter be granted," ratified the seventeenth day of December, A. D. 1841.

A. D. 1868.

In the Senate House, the twenty-first day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. Scott, Governor.

AN ACT TO ESTABLISH THE COUNTIES OF PICKENS AND OCONEE AS No. 34. JUDICIAL DISTRICTS, AND FOR OTHER PURPOSES.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Counties of Pickens and Oconce, into June trick. which Pickens has been divided, pursuant to an Ordinance of the Convention, ratified on the twenty-ninth of January, A. D. 1868, be, and each is hereby, established as a Judicial District.

Records trans-

Causes contin-

Judicial Dis-

II. That all the books of record, original records and other books and papers belonging to, or on file in the, offices of the Clerk of the Court and Reco Register of Mesne Conveyance, of the Sheriff, of the Ordinary, of the Coroner and of the Commissioner in Equity for Pickens District, be transferred to the offices in Pickens County, to which such books, records and papers may pertain, and be and remain in the charge of the officers of said county, to whom the custody and charge of the same appropriately belongs; and until the court house of said County of Pickens shall be constructed, it shall be the duty of the Commissioners appointed under the said Ordinance to provide for the safe keeping of said books, records and papers.

III. That all papers pertaining to causes instituted in Pickens District and yet pending be transferred to that one of the Counties of Oconec and ued. Pickens within the boundaries of which the defendant resided at the time such cause was instituted; and when there are several defendants who at such time resided, one or more in the one county, and one or more in the other, or when the defendant or defendants resided in neither of the counties, it shall be in the election of the plaintiff to have the papers transferred to either county; and all such causes shall be continued, prosecuted and determined in the Courts to which they shall be transferred.

IV. That all warrants issued in Pickens District and not yet executed, and all papers pertaining to prosecutions initiated in said district which are ed transferred. not yet ended, shall be transferred to that county within the limits of which the offence is charged to have been committed; and such prosecutions shall stand for trial, and the defendant be held to answer, in the county to which such papers are transferred.

V. That all writs and other civil process heretofore issued from the Courts of Pickens District and not yet served or executed shall be transferred for ferred. service to that county in which the defendant resides; or, if there be several defendants, to that county which the plaintiff shall elect; and be returnable

Writs trans-

Cases not end-

11

at such time as the General Assembly, at the present session, shall fix for

the return of such papers.

VI. That it shall be competent for the Circuit Judge having jurisdiction Circuit Judge in said counties to make, on motion of the parties, in Court or at Chambers, such orders as may seem necessary to preserve the interests of the parties, wherein the same are not provided for by the provisions of this Act.

In the Senate House, the twenty-first day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

- No. 35. AN ACT to Authorize a lease of the "State Road" running from the County of Greenville, in the State of South Carolina, across the Saluda Mountain, to the County of Henderson, in State of North Carolina.
- I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Notice of Rame, authority of the same, That Alexander McBee, Duncan Sullivan and Solomon Jones, citizens of Greenville County, in the State of South Carolina, be, and they are hereby, authorized to give public notice, within thirty (30) days after the passage of this Act, in one newspaper in each of the following places, to-wit: Greenville, Columbia and Charleston, that on a certain day, to be therein designated, at the court house of Greenville County aforesaid, they, the said Alexander McBee, Duncan Sullivan and Solomon Jones, will lease to the highest bidder therefor, the "State Road" running from Greenville County, in the State of South Carolina, across the Saluda Mountain, to Henderson County, in the State of North Carolina, for the term of three (3) years, said Commissioners to lease the road in forty (40) days after the passage of this Act.

II. That the said Commissioners are further directed to require a good and sufficient bond of the said lessee for the keeping of said road in good repair, and to prescribe such other conditions of the said lease as may by them be judged proper and necessary to secure a faithful observance of all

the requirements of the said lease.

III. That the said Commissioners are further empowered to execute the Empowered to said lease in the name of the State, and to do all other acts necessary to execute the lease, carry into effect the foregoing provisions of this Act.

In the Senate House, the twentieth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT to authorize the sale of the Columbia Canal.

A. D. 1868. No. 36.

Conditions.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, His Excellency the Governor, Robert N. Lewis and Charles M. Wilder are hereby constituted a Commission to sell and convey the right, title and interest of the State in the Columbia Canal, and in all the lands, privileges and appurtenances owned by the State thereunto belonging or appertaining, subject to the following conditions, (in addition to such other conditions as the said Commission in their discretion may impose, which conditions shall be published in the advertisement,) to-wit: That the purchaser or purchasers, his or their heirs, assigns or successors shall, within two years from the date of conveyance, complete the widening and deepening of the said canal to at least twice its original capacity; that the same shall always be kept open, and in proper order for boating purposes (free of all charges for toll or otherwise), as far as the same is now used; that the waters of said canal shall not be allowed to become stagnant; that the same shall not be used for other than hydraulic purposes; and upon the further condition that the work of widening and deepening the said canal shall be commenced within six months, and the sum of ten thousand dollars shall be expended on the same within twelve months, from the date of conveyance; and that the title to the canal shall revert to the State on default being made in any of the conditions so imposed.

II. That for the purpose of enabling the purchaser to widen said canal he is hereby authorized to take possession of one hundred feet of land on either side of the centre line of the present canal on payment to the owner of the value of the same; and if the said purchaser and the owner cannot agree upon the value, then upon the payment of such sum as may be assessed by Commissioners to be appointed for that purpose by the Court of Common Pleas for Richland County, the proceedings of the Commissioners so appointed to be governed in all respects according to the provisions of the tenth Section of an Act to authorize the formation of the Greenville and Columbia Railroad Company, ratified the fifteenth day of December, in the year of our Lord one thousand eight hundred and forty-five; and upon payment of the sum thus agreed on or assessed, the purchaser shall be entitled in his own right to such land in fee simple. And the Commissioners hereby appointed for the sale of the canal are authorized to convey to the purchasers such portion of the public streets above Gervais street as lic within the limits of the said one hundred feet on either side of the centre line of

the canal.

III. For the purpose of securing to the State the highest price for the property to be sold, and to create competition for the purchase thereof, the Commission shall cause the same to be advertised in at least one paper in the tised. cities of New York, Boston, Cincinnati, Richmond, Columbia and Charleston, two months previous to closing the contract; that the said advertisement shall set forth fully the nature, value and extent of the property to be sold, and invite bids for the same; the cost of such advertisement to be paid by check of His Excellency the Governor on the Treasurer, who shall pay it out of the public fund. And the said Commission shall accept the bid which, in their judgment, shall be most advantageous to the State.



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A. D. 1868. IV. The Commissioners hereby appointed are authorized to sell said property at public or private sale, at their discretion: Provided, That in any Anthorized to sale they may make, there shall be a reservation to the State of water power sufficient for the purposes of the State Penitentiary, for all time, free of charge.

> In the Senate House, the twenty-first day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

I. Be it enacted by the Senate and House of Representatives of the

No. 37. AN ACT TO EMPOWER CIRCUIT JUDGES TO CHANGE THE VENCE FOR THE TRIAL OF ACTIONS, BOTH CIVIL AND CRIMINAL.

State of South Carolina, now met and sitting in General Assembly, and by Power to the authority of the same, That the Circuit Judges shall have power to change venue. change the venue in all cases, civil and criminal, pending in the Circuit Courts, and over which such Courts have original or appellate jurisdiction, by ordering the record to be removed for trial to some other county within the Circuit in which such action or prosecution was commenced: Provided, Proviso. That the application for removal shall be made to the Judge sitting in regular term by some party interested, supported by affidavits which shall satisfy the Judge before whom the application is made that a fair and impartial trial cannot be had in the county where such action or prosecution was commenced: Provided, further, That twenty days' notice of such application shall be given to the adverse party.

II. All Acts or parts of Acts inconsistent with this Act are hereby re-

pealed.

In the Senate House, the twenty-first day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO PROVIDE FOR THE ACCOMMODATION OF THE GENERAL ASSEM-No 38. BLY, THE EXECUTIVE AND THE JUDICIARY.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Governor au-authority of the same, That His Excellency the Governor be authorized to have such repairs and alterations made in the building known as the College tract. Chapel as will fit it for the accommodation of the General Assembly at its next session, and for this purpose he be requested to invite proposals for the execution of the work necessary for the same, and to contract with the lowest and best bidder.

II. In case it should be deemed advisable that the General Assembly, the Executive and the Courts should be accommodated in one building, His Excellency the Governor is hereby authorized to make such arrangements as arrangements he may deem necessary for that purpose.

And to make

A. D. 1868.

In the Senate House, the twenty-first day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO SUPPRESS INSURRECTION AND REBELLION.

No. 39.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, Whenever by reason of unlawful obstructions, com-thorized to call binations or assemblages of persons, or rebellion against the authority of the out the militia. government of the State, it shall become impracticable, in the judgment of the Governor of the State, to enforce, by the ordinary course of judicial proceedings, the laws of the State within any county or counties of the State, it shall be lawful for the Governor of the State to call forth the militia of any or all the counties in the State, and employ such parts thereof as he may deem necessary to enforce the faithful execution of the laws or to suppress such rebellion.

II. Whenever, in the judgment of the Governor, it may be necessary to use the military force hereby directed to be employed and called forth, the Governor shall forthwith, by proclamation, command such insurgents to dis-tormand such insurgents to dis-tormand perse and retire peaceably to their respective abodes within a limited time.

III. The militia so called into the service of the State shall be subject to the same rules and articles of war as troops of the United States, and be continued in the service of the State until discharged by proclamation by to articles of war, the Governor: Provided, That such continuance in service shall not extend beyond sixty days after the commencement of the next regular session of the General Assembly, unless the General Assembly shall expressly provide therefor: Provided, further, That the militia so called into the service of the State shall, during their time of service, be entitled to the same pay, rations and allowances for clothing as are or may be established by law for the army of the United Scates.

IV. Every officer, non-commissioned officer or private of the militia who shall fail to obey the orders of the Governor of the State in any of the cases before recited, shall forfeit a sum not exceeding one year's pay and not less than one month's pay, to be determined by a court-martial; and such officer shall be liable to be cashiered by sentence of court-martial, and be incapacitated from holding a commission in the militia for a term not exceeding twelve months, at the discretion of the court; and such non-commissioned officer and private shall be liable to imprisonment by a like sentence on failure of the payment of the fines adjudged against them for one calendar mouth for every twenty five dollars of such fine.

Disobedience o

A. D. 1868.

To take possesnion of telegraphs and railroads.

V. The Governor of the State, when in his judgment the public safety may require it, be, and he is hereby, authorized to take possession of any or all of the telegraph lines in the State, their offices and appurtenances; to take possession of any or all railroad lines in the State, their rolling stock, their offices, shops, buildings, and all their appendages and appurtenances; to prescribe rules and regulations for the holding, using and maintaining of the aforesaid telegraph and railroad lines, in the manner most conducive to the interest and safety of the Government; to place under military control all the officers, agents and employees belonging to the telegraph and railroad lines thus taken possession of, so that they shall be considered a part of the military establishment of the State, subject to all the restrictions imposed by the rules and articles of war.

VI. The Governor is authorized to employ as many persons as he may To employ and deem necessary and proper for the suppression of such insurrection, rebelasum-lion or resistance to the laws; and for this purpose he may organize and use cient force. them in such a manner as he may judge best for the public welfare.

beas corpus.

VII. If, during any insurrection, rebellion, or any unlawful obstruction To suspend in of the laws as set forth in the first Section of this Act, the Governor of the State, in his judgment, shall deem the public safety requires it, he is authorized to suspend the privilege of the writ of habeas corpus in any case throughout the State or any part thereof; and whenever the said privilege shall be suspended as aforesaid, no military or other officer shall be compelled, in answer to any writ of habeas corpus, to return the body of any person or persons detained by him by authority of the Governor; but upon the certificate, under oath, of the officer having charge of any one so detained, that such person is detained by him as a prisoner under authority of the Governor, further proceeding under the writ of habeas corpus shall be suspended by the Judge or Court having issued the said writ, so long as said suspension by the Governor shall remain in force and said rebellion continue.

> VIII. All Acts and parts of Acts inconsistent with this Act, or supplied by it, are hereby repealed.

In the Senate House, the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO QUIET RIGHTS VESTED UNDER MILITARY ORDERS. No. 40.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Military orders authority of the same, All rights of property vested, accrued or in action, by virtue of the judgments, orders or decrees of military tribunals, or by declared valid. virtue of General or Special Orders issued by military commanders on duty in the State since the first day of March, Anno Domini eighteen hundred and sixty-five, and up to the time of the expiration of the late Provisional Government of South Carolina, are hereby affirmed and declared valid, and

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A. D. 1868.

the same shall be unquestioned in the Courts of the State. The following General Orders, issued from Headquarters of Second Military District, at Charleston, South Carolina, are affirmed and re-enacted, to-wit: Paragraph 13 of General Orders No. 10, dated April 11, A. D. one thousand eight hundred and sixty-seven; General Orders No. 139, dated December third, A. D. one thousand eight hundred sixty-seven, and General Orders No. 28, dated February twenty-seventh, A. D. one thousand eight hundred and sixty-eight.

II. To the end, and for the purposes set forth in this Act, and no other, are the General and Special Orders of the military commanders aforesaid, General and together with the judgments, orders and decrees of the military tribunals Special Orders aforesaid, continued in full force and virtue, unless inconsistent with the Constitution of this State or the Acts passed by this special session of the

General Assembly.

III. All persons who are now holding office by reason of any General or Special Orders issued by any military commanders in this State are continued. hereby continued in office until their successors shall be appointed or elected and qualified.

Appointments

In the Senate House, the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO FIX THE SALARY AND DEFINE THE DUTIES OF THE ATTOR-No. 41. NEY-GENERAL OF THE STATE.

1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Attorney-General shall receive a salary of three thousand dollars a year, and a sum not exceeding one thousand dollars annually for such clerical assistance as the business of his office may

Salary.

II. He shall appear for the State in the Supreme Court in the trial and argument in said Court of all causes, criminal and civil, in which the State is a party or interested, and in such causes in any Court or tribunal, when required by the Governor or either branch of the General Assembly.

III. He may, when in his judgment the interest of the State requries it, file and prosecute informations or other process against persons who in-tions. trude upon the lands, rights or property of the State, or commit or erect any nuisance thereon.

File informa-

IV. He shall consult with and advise the Solicitors in matters relating to the duties of their offices; and when in his judgment the interest of the licitors. State requires it, shall assist them by attending the Grand Jury in the examination of any case in which the party accused is charged with a capital offence; and when in his judgment the interest of the State requires it, he shall be present at the trial of any cause in which the State is a party or interested, and when so present, shall have the direction and management of such prosecutions and suits.

A. D. 1868. cation of funds.

eral Assembly.

V. He shall enforce the due application of funds given or appropriated to public charities within the State, prevent breaches of trust in the ad-Enforce appli- ministration thereof, and when necessary, shall prosecute corporations which fail to make to the General Assembly the return required by law.

VI. He shall, when required by either branch of the General Assembly, Attend Gen-attend during their sessions, and give his aid and advice in the arrangement and preparation of legislative documents and business, and shall give his opinion upon questions of law submitted to him by either branch thereof,

or by the Governor.

VII. He shall, when required by the Secretary of State, Treasurer, Adjutant and Inspector-General, the Comptroller-General, or other State officer, consult and advise with them, respectively, on questions of law relating to their official business.

VIII. He shall annually make a report to the General Assembly of the cases argued, tried or conducted by him in the Supreme Court and Circuit Courts during the preceding year, with such other information in relation to the criminal laws, and such observation and statements as, in his opinion, the criminal jurisdiction and the proper and economical administration of the criminal law warrant and require.

IX. On his representation the Governor may draw his warrant on the Treasury to an amount not exceeding three hundred dollars in one year, for the contingent expenses of civil actions in which the State is a party or has an interest, for which sum he shall annually, in October, account to the Governor, and he shall state the amount so expended in his annual report to the

General Assembly.

X. No prosecuting officer shall receive any fee or reward from, or in behalf Not to receive of, a prosecutor for services in any prosecution or business to which it is his official business to attend, nor be concerned as counsel or attorney for either party in a civil action depending upon the same state of facts.

XI. The Attorney-General shall account with the Treasurer of the State Account to Treasurer. office.

for all fees, bills of costs and moneys received by him by virtue of his

In the Senate House, the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

- AN ACT TO DECLARE THE MANNER BY WHICH THE LANDS, OR THE RIGHT OF WAY OVER THE LANDS, OF PERSONS OR CORPORATIONS MAY BE TAKEN FOR THE CONSTRUCTION AND USES OF RAILWAYS AND OTHER WORKS OF INTERNAL IMPROVEMENT.
- I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Mode of pro authority of the same, That whenever any person or corporation shall be cedure. authorized by charter to construct a railway, canal, turnpike, or other public highway in this State, such person or corporation, before entering upon any

lands for the purpose of construction, shall give to the owner thereof (if he be sui juris) notice in writing that the right of way over said lands is required for such purpose, which notice shall be given at least thirty days before entering upon said lands; and if such notice shall be given, and the owner shall not, within the period of thirty days after service of said notice, signify in writing his refusal or consent, it shall be presumed that such consent is given; and such person or corporation may, thereupon, enter upon said lands: Provided, however, That the owner of said lands may be entitled to more for an assessment of compensation in, the manner hereinafter directed.

Duties of jury.

A D. 1868.

II. That if the owner of the lands shall signify his refusal of consent to entry upon his lands without previous compensation, the person or corpora-fusal. tion requiring such right of way shall apply, by petition, to the Circuit Judge of the county wherein such lands are situated for the empanneling of a jury to ascertain the amount which shall be paid as just compensation for the right of way required, in which petition shall be set forth a description of the lands, the names of the owner or owners, the purposes for which the lands are required, and such other facts as may be deemed material. On the hearing of such petition, the Circuit Judge shall order the same to be filed in the office of the Clerk of the Court of Common l'leas for said county, and shall further order the Clerk of the Court to empannel a jury of twelve to ascertain the compensation for the use of the lands required; and it shall be the duty of the said Clerk, immediately on receiving such order, to give to the owner of the lands notice thereof in writing, and of the day which shall be assigned for the drawing of the jury, which notice shall be served at least five days before the day assigned. On the day assigned the said Clerk, in the presence of the parties, if they shall attend, shall select the names of twenty-four disinterested freeholders of the county, and from that number shall draw the names of twelve to act as jurors, and shall cause those so drawn to be forthwith summoned to meet at such place and at such time as he may assign, for the purpose of examining the said lands and ascertaining the compensation to be made for the right of way over the same; it shall further be the duty of the said Clerk, in person or by his deputy, to attend at the same time and place for the purpose of organizing the jury, and he shall have power to summen from the vicinage other disinterested freeholders to act as jurors in the stead of any of those first summoned who shall fail to attend, or who shall be objected to by either party on the ground of disqualification on account of interest.

III. That the jury so empanneled, after being first sworn faithfully and impartially to determine the question of compensation submitted to them, shall proceed to inspect the premises and to take testimony in reference to the construction of the proposed highway, and the quantity of land which shall be required therefor; and irrespective of any benefit which the owner may derive from the proposed highway, and with respect alone to the quantity and value of the lands which may be required, and to the special damage which the owner may sustain by reason of the construction of the highway through his lands, they shall ascertain the amount of compensation which shall be made to the owner thereof, and shall render their verdict in

writing for the same.

IV. That from the verdict so rendered it shall be the right of either party to appeal to the first term of the Circuit Court next ensuing in the

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A. D. 1868.

county, giving to the opposite party fifteen days' notice of such intended appeal, with the grounds thereof; and upon the hearing of such appeal, if Right of ap- the Court shall be satisfied of the reasonable sufficiency of the grounds, an issue shall be ordered, in which the appellant shall be the actor, and the question of compensation shall be thereupon submitted to a jury in open Court, whose verdict shall be final and conclusive, unless, on writ of error, a new trial shall be ordered by the Supreme Court. But in no case of appeal shall the progress of the work of construction be stayed: Provided, The person or corporation requiring the right of way shall deposit with the Clerk of the Court the amount of the verdict from which the appeal is

pots, &c.

V. That whenever any lands shall be required for the location of deports, Lands for de-stations, turnouts, section houses, or other necessary uses of a highway, and from want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner, the same may be taken at an assessed valuation, to be made by a jury in like manner as hereinbefore

directed for ascertaining the compensation for right of way.

tees.

VI. That where the owner, or any one of the several owners, of the lands Notice to trus- is a feme covert, an infant, or non compos mentis, the required notices shall be served upon the trustee, guardian or committee of such persons; and if there be no trustee, guardian or committee, the Clerk of the Court of Common Pleas shall have power, and he is hereby authorized, to appoint for such person a guardian ad litem, upon whom the service shall be made, and who shall represent the interest of such feme covert, infant, or person non compos mentis. And if the owner, or any of the owners of the lands, shall reside beyond the State, or his or her place of residence be unknown, it shall suffice if notice of the application for a jury, and of the time and place at which they are summoned to attend, be published by the Clerk of the Court for one month next preceding the day assigned, which publication shall be made in a newspaper published in the county, or if there be none there published, then in some newspaper of the State having general circulation in the county.

VII. That upon payment of the compensation thus ascertained by a jury, Rights acquired the right of way over said lands, or the use of said lands for the purposes for which the same were required, shall vest in the person or corporation who shall hold the charter of such highway, so long as the same shall be used for such highway, and no longer; but the fee in such lands subject to such special uses shall remain in the owner thereof, and nothing herein contained shall be construed to confer upon such person or corporation any right in, or power over, the lands so condemned, other than such as may be within the particular purpose for which such lands were condemned.

VIII. That no lands or right of way which have heretofore, or may here-Liability to after be, procured for the construction or use of any highway shall be concondemnation. sidered exempt from liability to condemnation; but the right of way over said land and across or along such right of way may be condemned for the construction of any other highway: Provided, That in the construction of such other highway there be no hindrance to the use and enjoyment of the highway for which such lands or right of way were previously procured; and in all such cases notice of the application for a jury shall be served upon the President of the corporation whose lands or right of way shall be required, or upon any Director or local agent of the corporation.

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IX. That nothing herein contained shall be construed to prevent entry upon any lands for purposes of survey and location; and if in any case the owner of any lands shall permit the person or corporation requiring a right of way over the same to enter upon the construction of the highway without previous compensation, the said owner shall have the right, after the highway shall have been constructed, to demand compensation, and to petition for an assessment of the same in the manner hereinbefore directed: Provided, Such petition shall be filed within twelve months after the highway shall have been completed through his or her lands.

X. That all proceedings in relation to the condemnation of lands for the right of way, or for other necessary uses of any chartered highway, shall be be filed. filed in the office of the Clerk of the Court of Common Pleas for the county in which such proceedings were had, and shall be there of record. If the lands required, or over which the right of way be required, shall be partly in one county and partly in another, the proceedings shall be instituted in that county in which the owner or a majority of the owners reside; and if the owner or owners shall reside in neither of the counties, or if there shall be an equal number of the several owners in each county, the proceedings shall be instituted in that county in which shall lie the greater part of the lands in reference to which such proceedings are instituted.

XI. That the Clerk of the Court shall be entitled to a fee of ten dollars in every case instituted for the condemnation of lands under this Act; the same to cover all charges incident thereto prior to appeal, including also fees for recording, but not including costs of advertising; to which shall be added, in cases of appeal, an additional fee of two dollars, the same to cover all charges incident to the appeal; that the Sheriff shall be entitled to a fee of one dollar and mileage at the rate of five cents per mile for each service of notice or other paper; and for the summoning of jurors, the same fee now by law allowed for the summoning of jurors for the Courts of Common Pleas; and that the jurors shall be entitled to the same per diem and mileage now by law allowed for attendance as jurors at the Courts of Common Pleas; all of which costs, except costs of appeal, shall be paid by the person or corporation requiring the lands or right of way, and the costs of appeal shall in all cases be paid by the losing party.

XII. That any juror, duly summoned to attend at the time and place designated, who shall fail to attend, shall be proceeded against in the same rors. manner and be subject to the same penalties which are or may be prescribed by law for default in attending as jurors at the Court of Common Pleas.

In the Senate House, the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. Scott, Governor.

AN ACT TO PROVIDE FOR THE GOVERNMENT OF THE SOUTH CAROLINA PENITENTIARY.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The Penitentiary at Columbia, in the County of RichA. D. 1868.

Right of entry.

Clerk's fees

Sheriff's fees

Jurors' fees.

Failure of ju-

No. 43.

A. D. 1868.

land, shall be the general penitentiary and prison of the State for the reformation as well as the punishment of all offenders, in which shall be securely The Peniten-confined, employed and governed in the manner hereinafter directed, all offenders who shall have been convicted and sentenced according to law to the punishment of solitary imprisonment or confinement therein at hard labor

II.. The State Penitentiary shall be under the direction and government Superintendent of a Superintendent, to be appointed by the Governor, by and with the advice and consent of the Senate, who shall hold his office for two years commencing on the first day of January, except the first Superintendent appointed under this Act, who shall enter upon the duties of his office within thirty days after his appointment, and hold the same until the first day of January, eighteen hundred and seventy-one, unless sooner removed according to law.

Bond

III. The Superintendent, before entering upon the duties of his office, shall give bond, with two or more sufficient sureties, in the sum of twenty thousand dollars, to the Treasurer of the State, conditioned for the faithful performance of the duties of his office.

IV. It shall be the duty of the Superintendent?

Duties of Superintendent.

- 1. To make and establish all such regulations for the due management of the concerns of the Penitentiary, and for the government and security of the prisoners therein, as may be necessary and proper, and not repugnant to the. laws of the State, and the same to alter, from time to time, as shall be found expedient, subject, however, to the revision, alteration or amendment of the Directors.
- 2. To appoint and remove at pleasure a Keeper and such servants and guards as shall be necessary for the due management of the prison and safekeeping of the prisoners.

3. To purchase all the provisions and materials, and other articles necessary for supporting and employing the prisoners, and for effecting the objects

of the institution.

4. To make all necessary repairs of the prison, and superintend the construction of the work.

5. To make sale of such articles produced in or belonging to the prison as

are proper to be sold.

6. To take the charge and custody of the buildings, furniture, tools, implements, stock, provisions and every species of property pertaining to the prison belonging to the State.

7. To receive and pay out all moneys granted by the General Assembly, or in any other way accruing for the support of the prison and carrying on

the work.

- 8. To keep suitable books, regular and complete accounts of all property, expenses, purchases, sales, income, business and concerns of the establishment.
- 9. To report to the Directors of the prison on or before the 15th day of October, annually, a list of the prisoners, the commencement and expiration of their several sentences, and a copy of the regulations of the prison.

10. To make out and report to the Directors of the prison, and to the Comptroller General, on or before the 15th day of October, annually, minute

statements of all his accounts and doings up to that time.

11. To suppress any disorders, riots or insurrection that may take place among the prisoners.

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V. In order to suppress any disorders, riots or insurrection among the prisoners, the Superintendent may require the aid and assistance of any of the citizens of the State.

May require

VI. If any person, when so required by the Superintendent, shall neglect or refuse to give such aid and assistance, shall pay a fine not exceeding fusal. fifty dollars.

Penalty for re-

VII. Any person so aiding and assisting the Superintendent shall receive a reasonable compensation therefor, to be paid by the Superintendent and allowed him on the settlement of his accounts.

Compensation.

VIII. If, in suppressing any such disorder, riot or insurrection, any person who shall be acting, aiding or assisting in committing the same shall be wounded or killed, the Superintendent, Keeper, or any person aiding or assisting him, shall be justified and be held guiltless.

Justification

IX. In the absence of the Superintendent, the Keeper shall have the same power in suppressing the disorders, riots and insurrections, and requiring aid Keeper. and assistance in so doing, that is herein given to the Superintencent.

X. The Superintendent shall receive and safely keep, at hard labor, in the prison, all prisoners sentenced to confinement at hard labor therein by the authority of the United States, until they shall be discharged agreeably to the laws of the United States.

Receive and

XI. The Superintendent, Keeper, and persons employed in the prison as assistants and servants, shall be exempt from military duty.

Exemption

XII. All actions or suits at law for the recovery of any debt or demand accruing from the business transactions at the Penitentiary, or for the recovery of damages for injuries done to any of the property or effects of said prison, shall be brought and maintained in the name of the Superintendent thereof for the time being; and the said Superintendent is authorized and empowered to sue for and collect all such claims and demands of every description now due, or which may hereafter become due and payable, on account of said prison.

XIII. The Governor shall, by and with the advice and consent of the Senate, appoint three Directors of the State Penitentiary, who shall have the point Directors.

power and whose duty it shall be: 1. To visit, jointly, the State Penitentiary at least four times in cach Dutles of Directors.

year. 2. To examine and inquire into all matters connected with the government, discipline and police of the prison, the punishment and employment of the convicts therein confined, the money concerns and contracts for work, and the purchases and sales of the articles provided for the prison, or sold on account thereof, and the progress of the work.

3. To require reports from the Superintendent and Keeper, or other officers of the prison, in relation to any or all the preceding matters.

Reports.

4. To make such general regulations for the government and discipline of the prison, or modify such regulations as may have been made by the Superintendent, as they may deem expedient, and from time to time alter and amend the same; and in making such regulations it shall be their duty to adopt such as in their judgment, while consistent with the discipline of the prison, shall best conduce to the reformation of the convicts.

Regulations.

5. To inquire into any improper conduct which may be alleged to have been committed by the Superintendent, Keeper, or other officer of the prison,

Investigations.

A. D. 1868. and for that purpose to issue subpoens to compel the attendance of witnesses, and the production before them of books, writings and papers, in the same manner, with like effect, and subject to the same penalties for disobedience, as in cases of trial before Justices of the Peace; and to examine, under oath, any person or persons who may be brought before them as witnesses.

Minutes.

Provisions.

6. To keep regular minutes of their meetings and proceedings at the prison, which minutes shall be signed by them and entered in a book which shall be kept for that purpose at the prison.

7. To prescribe the articles of food and the quantities of each kind that shall be inserted in each contract for the supply of provisions to the

prison.

8. To suspend or remove, with the consent of the Governor, the Super-Suspend or re-intendent for oppression and misconduct in office; such suspension or removal shall not take place without giving the Superintendent an opportunity to be heard in his defence.

9. To make an annual report to the Governor, on or before the first day Annual report of November in each year, of the State and condition of the prison, the convicts confined therein, of the money expended and received, and generally of all the proceedings during the last year, to be laid before the General Assembly.

Chaplain.

XIV. The Directors of the prison may appoint a Chaplain, who may be furnished with quarters within or near the enclosure, whose duty it shall be, on every Sabbath, and as often as the rules will permit, to perform in the prison such religious services as are usually performed in the churches of this State, and attend to instruct the prisoners in their moral and religious duties, and visit the sick on suitable occasions; said Chaplain shall receive such compensation, not exceeding five hundred dollars per annum, as shall be determined by the Directors.

Salaries.

escape.

XV. The Superintendent shall receive a salary of two thousand dollars per annum, and the Keeper and other officers and employees such compensation as may be fixed by the Superintendent and approved by the Directors.

XVI. The Directors, for services performed under this Act, shall receive Compensation four dollars per day for time necessarily employed, and ten cents per mile of Directors. for necessary travel.

XVII. If any person employed in keeping, taking care of or guarding Connivance at the Penitentiary, or the prisoners therein, shall contrive, procure, connive at, or otherwise voluntarily suffer or permit the escape of any such prisoner or prisoners, he, on conviction thereof, shall be confined at hard labor in the

XVIII. All Acts or parts of Acts inconsistent with this Act, or supplied

by it, are hereby repealed.

prison not exceeding twenty years.

In the Senate House, the twenty-third day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, JR., Speaker House of Representatives.

Approved: Robert K. Scott, Governor.

use#pd-google http://www.hathitrust.org/access_ AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PROHIBIT THE DIG-GING OF CELLARS, IN FUTURE, WITHIN THE LIMITS OF TOWNS ON THE SEABOARD."

A. D. 1868. No. 44.

I. Be it enacted by the Senate and House of Representatives, of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to prohibit the digging of cellars, in future, within the limits of towns on the seaboard," of 1839. passed on the twenty-first day of December, in the year one thousand eight hundred and thirty-nine, be, and the same is hereby, repealed.

In the Senate House, the twenty-third day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT to regulate the admission of persons to practice as at-TORNEYS, SOLICITORS AND COUNSELLORS IN THE COURTS OF THIS STATE.

No. 45.

I. Be it enacted by the Schate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, Any male citizen, of the age of twenty-one years, having read law in the office of any practicing attorney of good standing in this State for the period of two years, or graduated at any recognized law school in the United States, shall, on the examination of three members of the Bar, appointed by the Circuit Court for that purpose, who shall certify that he is a person of good moral character, and possesses the requisite learning and ability, be admitted to practice in the Circuit and Probate Courts as an attorney, solicitor and counsellor, upon taking the oath prescribed in the Constitution: Provided, That in extraordinary cases, the Judge presiding may, in his discretion, dispense with any portion of the two years study herein required. And the Judges of the Supreme Court may, in like manner, and under like regulations, admit persons to practice as attorneys, solicitors and counsellors in the Supreme Court, and admittance to the Supreme Court shall entitle them to practice in all of the Courts of this State.

Qualifications.

II. Any person of good moral character, who has been admitted to practice as an attorney, solicitor or counsellor in any Court of record in any of states. the United States, or in any Court of the United States, shall, on producing the proper evidence thereof, on motion, be admitted to practice as such in the Courts of similar grade in this State, on taking the prescribed oath.

III. Any attorney, solicitor or counsellor, having been admitted to practice in the Circuit and Probate Courts, and practiced acceptably therein two courts. years, shall, on motion and recommendation of any attorney of record in the Supreme Court, be admitted to practice in said Court.

IV. The oath required to be taken by this Act shall be administered in open Court, and the name of the person taking the same entered in a roll

or book kept for that purpose, and a certificate of said oath shall be filed in Court.

V. Attorneys, solicitors and counsellors may be removed or suspended, suspension.

V. Attorneys, solicitors and counsellors may be removed or suspended, and also, in aggravated cases, imprisoned not exceeding twenty-four hours by the several Courts in which they may have been admitted to practice, if in the presence of such Courts they are guilty of any disorderly conduct causing an interruption of business or amounting to an open and direct contempt of the Court, his authority or person; but subject to such removal, they shall hold their office for life.

VI. Any attorney, solicitor or counsellor may be removed or suspended moval.

Cause of re-who shall be guilty of any deceit, malpractice or misdemeanor; but not until a copy of the charges against him shall have been delivered to him by the Clerk of the Court in which the proceedings shall be had, and an opportunity shall have been given him of being heard in his defence.

VII. If any attorney, solicitor or counsellor shall enter into any specuspeculation.

for lating practices by purchasing, or procuring to be purchased, any note or
other demand for the purpose of putting the same in suit, when otherwise
the owner or holder thereof would not sue the same, such attorney, solicitor
or counsellor shall pay a fine of one hundred dollars, and shall thereafter be
incapable of practicing as such in any Court until restored by the Supreme
Court.

VIII. No attorney, solicitor or counsellor shall be allowed to occupy more speeches lim-than two hours of the time of the Court in the argument of any cause, unless he shall first obtain the special permission of the Court to do so.

Right of citi-cuting or defending his own cause, if he so desires. All Acts heretofore passed, regulating the admission of attorneys, solicitors or counsellors to practice in the Courts of this State, and all Acts inconsistent with, or supplied by, this Act, are hereby repealed.

In the Senate House, the twenty-third day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.
FRANKLIN J. MOSES, Jr., Speaker House of Representatives.
Approved: ROBERT K. SCOTT, Governor.

No. 46. AN ACT to repeal the charter of the town of Hamburg.

I. Be it cnacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act incorporating the town of Hamburg, Repeal of char- in the County of Edgefield, and all Acts appertaining thereto, be, and the same are hereby, repealed.

In the Senate House, the twenty-third day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Scuate.
FRANKLIN J. MOSES, Jr., Speaker House of Representatives.
Approved: ROBERT K. SCOTT, Governor.

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AN ACT TO DETERMINE THE MANNER OF DISPOSING OF LANDS PURCHASED BY THE STATE FOR TAXES.

I. Be it enacted by the Schate and House of Representative of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, In the case of all lands purchased on behalf of the State, under the provisions of Section 108 of an Act entitled "An Act to urer may lease. provide for the assessment and taxation of property," the County Treasurer shall, in the name of the State, enter upon and take possession of the same, and may lease the same in pareels not exceeding forty acres each to any person or persons who are citizens of the State, and who may desire to cultivate

the same; said leases to be in such form as shall be prescribed by the Attorney-General, and subject to all the rights of redemption in such case provided for by law. Said lands may be leased for a sum certain, not less than ten per cent. of the cost thereof, or for such share of the crops as shall be

No. 47.

County Treas-

reasonable and just. II. Any person who shall have rented lands under the provisions of the foregoing Section, entered upon and fulfilled the conditions of the lease, Pre-emption. shall, at the expiration of the time during which said lands were redcemable by the original owner, be deemed to have acquired a right of pre-emption in

Ш After the time allowed for the redemption of any lands purchased by the County Treasurer, on behalf of the State on account of taxes, shall have passed, the said Treasurer shall cause the same, or any portion thereof, to be tracta, sub-divided and sold, in parcels not exceeding forty acres each, at public sale, after giving sixty days' notice thereof, and issue a certificate therefor. land shall be sold to the highest bidder, and on terms most advantageous to the revenue of the State: Provided, The party or parties who may have gained a right of pre-emption shall have the right to purchase the same at a sum not less than the cost thereof to the State, one-fourth of the purchase money to be paid down, and the balance, with interest, in three annual instalments.

IV. After the purchase money shall have been fully paid, together with the interest thereon, the Governor is authorized and required to cause a patent. Patents to be or patents to be issued to any such person as may be the bona fide purchaser, owner, assignce or transferee of such lands or tenements, under and by virtue of any certificates of sale, or under and by virtue of any assignment or transfer of such certificate: Provided, That in case of an assignment or transfer of a certificate of sale the person applying for such patent shall give sutisfactory proof to the County Treasurer of the preceding transfers and assignments.

V. The County Treasurer shall, on or before the first day of November in each year, report to the State Treasurer all lands leased under this Act, giving the names of the lessees and the terms of each lease, and the names of Treasurer. the original owners of such lands. Also, a report of all lands sold, and of the certificates of sale issued and the terms of each sale. All moneys accruing to the State under the provisions of this Act shall be paid over and accounted for in the same manner as money received for taxes.

. In the Senate House, the twenty-third day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

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A. D. 1868. AN ACT TO MAKE ADDITIONAL APPROPRIATIONS FOR THE PAYMENT OF THE PER DIEM AND MILEAGE OF THE MEMBERS, THE SALARIES OF THE No. 48. SUBORDINATE OFFICERS, AND OTHER EXPENSES OF THE GENERAL ASSEM-BLY, AND FOR THE PAYMENT OF THE SALARIES OF THE STATE OFFICERS.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina. now met and sitting in General Assembly, and by the Additional ap- authority of the same, That the additional sum of sixty thousand dolpropriation. lars, if so much be necessary to meet the expenses of the present session of the General Assembly, be paid out of any money in the Treasury not otherwise appropriated: Provided, That the pay certificates of members and officers and the pay certificates and orders for all other expenses shall be Certificate to signed by the Clerks and countersigned by the presiding officers of the rebe signed. spective Houses to which such officers or members or expense belongs; but that the pay certificates or orders of officers, and expenses common to the two Houses shall be signed by the Speaker of the House of Representatives and countersigned by the President of the Senate, and collected at the Treasury for each House by such person as the Speaker of the House may

> direct for the Senate; and for officers common to both Houses, by joint order of the presiding officers of the two Houses.

Salaries of Governor, &c.

II. That the additional sum of twelve thousand (\$12,000) dollars, if so much be necessary to pay the salaries of the following officers, to wit: Governor, Adjutant and Inspector-General, the State constabulary force, Private Secretary of the Governor, Messenger of the Governor, Secretary of State, State House Keeper and Legislative Librarian, Chief Justice of Supreme Court, two Associate Justices of Supreme Court, three Chancellors, eight Judges of Circuit Courts, Attorncy-General, Solicitors, Clerk of Court of Appeals, Messenger of Court of Appeals, State Reporter, Treasurer of the State, Comptroller-General, Physician to Charleston Jail, Assessor of St. Phillip's and St. Michael's Parish, Superintendent of Education and School Commissioners, be paid out of any money in the Treasury not otherwise appropriated, the same to be drawn and paid in the manner heretofore authorized by law.

direct for the House of Representatives, and President of the Senate may

In the Senate House, the twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, JR., Speaker House of Representatives Approved: ROBERT K. SCOTT, Governor.

AN ACT TO PROVIDE FOR THE TEMPORARY APPOINTMENT OF MAGIS-No. 49. TRATES, AND TO DEFINE THEIR POWERS AND DUTIES.

I. Be it enacted by the Senate and House of Representatives of the State The Governor of South Carolina, now met and sitting in General Assembly, and by the to appoint Magisauthority of the same, Until the organization of the Courts contemplated by Section 21, 22 and 23, of Article fourth, of the Constitution, the Governor is hereby authorized, empowered and required to appoint a suitable number Public Domain, Google-digitized

of fit and discreet persons in each county to act as Magistrates for such counties, which persons he shall commission; and the practice in such Magistrate Courts shall conform to the law as deretofore existing, so far as the same is not inconsistent with this Act, or with the provisions of the Constitution of this State, as ratified in April, 1868.

A. D. 1868.

II. On receiving such commission, and before entering upon the duties of their offices, such Magistrates shall take and subscribe before the Clerk of the Court of their respective counties the oath required by Section 30, Article 2, of the Constitution, and file the same in his office, unless in counties where such Clerks may not be qualified according to law; and in such cases the said oath shall be administered by any officer authorized to administer oaths in the county where such Magistrate may be appointed; and such eath so administered shall be filed in the office of the Secretary of State.

Oath of office.

Magistrates may immediately enter upon the discharge of their duties. III. Such Magistrates shall have original jurisdiction in cases of bastardy, and in all matters of contract and actions for the recovery of fines and forfeitures, where the amount claimed does not exceed ninety-nine dollars; and in cases of actions ex delicto, where the damages claimed do not exceed ninety-nine dollars; and prosecutions for assault and battery, and other penal offences less than felony, punishable by fine not exceeding ninety-nine They may also sit as examining courts, and commit, discharge or recognize (except in capital cases) persons charged with offences. They shall also have power to bind over to keep the peace, or for good behavior. For the foregoing purposes they shall have power to issue all necessary pro-

Jurisdiction.

IV. The Governor of the State is hereby authorized and empowered, Removal or upon such evidence as may to him be satisfactory, to summarily remove any Magistrates. Mugistrate of this State.

V. Either party to a suit before a Magistrate shall be entitled to a trial by to a jury. jury

VI. In civil cases the parties may agree on a jury, but when they do not agree, and also in criminal causes, a jury shall be selected in the following ries, manner: The Sheriff, Constable, or officer appointed by the Magistrate, shall write and fold up eighteen ballots, each containing the name of a respectable voter of the vicinity; he shall deliver the ballots to the Magistrate, who shall put them into a box and shake them together, and the officer shall draw out one, and the person so drawn shall be one of the jury, unless challenged by either party; and the officer shall thus proceed until he shall have drawn six who shall not be challenged; but if the first twelve shall be challenged, and the parties do not agree to a choice, the last six shall be the jury; and when any of the six jurors so drawn cannot be had, or are disqualified by law to act in such case, and the parties do not supply the vacancy by agreement, the officer shall proceed to prepare, in the manner before directed, ballots for three times the number thus deficient, which shall be disposed of and drawn as above provided.

Selection of ju-

VII. If any juror so summoned shall neglect or refuse to appear in obedience to such venire, and shall not within forty-eight hours render to De rora. the Magistrate who issued the venire a sufficient reason for his delinquency, he shall forfeit and pay a fine of two dollars to the Treasury of the county where the cause is tried, to be assessed by such Magistrate, and collected on his warrant without other process.

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Appeals.

VIII. An appeal from the judgment of a Magistrate to the next stated term of the Circuit Court in the county where the judgment is rendered may be taken by either party, if claimed within two hours after the rendition thereof.

In criminal cases.

IX. In criminal cases, the party appealing shall, at the time of the appeal, give security by way of recognizance to the Treasurer of the County where the offence is charged to have been committed, if the prosecution be on complaint of an informing officer; if otherwise, to the prosecutor, conditioned that the appellant shall personally appear before said Circuit Court, and there prosecute his appeal to effect, and abide the order of the Court thereon.

Security.

X. In civil cases, the party appealing shall, at the time of the appeal, give security by way of recognizance to the adverse party that the appellant shall prosecute his appeal to effect, and answer and pay all intervening damages occasioned by delay to the appellee, with additional cost, if judgment be affirmed.

XI. The appellant shall produce and enter in the Court to which the Papers to be appeal is taken attested copies of the original writ, process, record of judgproduced. ment, and all evidence filed in the Court from which the appeal was allowed. In the Circuit Court the cause shall be heard de novo; or as if no trial had been had.

Fees of jurors.

XII. The fee of each juror for trying an action shall be twenty-five cents, to be advanced by the party praying for a jury before a venire shall issue.

XIII. This Act shall take effect immediately, and all Acts or parts of Acts inconsistent herewith are repealed.

In the Senate House, the twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT TO SUPPLY TEMPORARY VACANCIES IN THE OFFICE OF THE No. 50. GOVERNOR.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the President of authority of the same, In case of the removal, death, resignation or inability, Senate pro tem or both, the Governor or Lieutenant-Governor, the President of the Senate pro tempore shall exercise the office of Governor until such disability shall have been removed, or until the next general election, when a Governor shall be elected by the electors duly qualified, as is prescribed by Section 2 of Article third of the Constitution.

II. In case of the disability, from whatever cause, of the Governor, Speaker of Lieutenant Governor and the President of the Senate pro tempore, the liouse of Repre-Speaker of the House of Representatives shall exercise the office of Govsentatives. ernor in like manner and upon the like conditions as are prescribed by Section first of this Act.

III. In case of the disability, from whatever cause, of all the officers

enumerated in the preceding Sections, the General Assembly, if the same shall be in session, by a joint vote, shall elect a person duly qualified to fill the office of Governor, in like manner and upon the like conditions as are bly elect. prescribed by Section first of this Act. IV. Whenever a Governor shall be elected at such general election, as

hereinbefore provided, he shall immediately enter upon the discharge of the charge of duties. duties of his office, and shall continue to so discharge such duties during the residue of the term.

Immediate dis-

In the Senate House, the twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO REGULATE ATTACHMENTS.

No. 51.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, In an action for the recovery of money against a corporation created by or under the laws of any other State, Government or country, or against a defendant who is not a resident of this State, or against a defendant who has absconded or concealed himself, or whenever any person or corporation is about to remove any of his or its property from this State, or has assigned, disposed of or secreted, or is about to assign, dispose of or secrete, any of his or its property, with intent to defraud creditors, as hereinafter mentioned, the plaintiff, at the time of issuing the summons, or at any time afterwards, may have the property of such defendant or corporation attached, in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as the plaintiff may recover.

Attachment.

II. A warrant of attachment must be obtained from a Judge, Justice of the Peace, Magistrate, or Clerk of a Court in which or before whom the action is brought.

How obtained.

III. The warrant may be issued whenever it shall appear by affidavit that a cause of action exists against such defendant, specifying the amount of the claim and the grounds thereof, and that the defendant is either a foreign corporation or not a resident of this State, or has departed therefrom with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself concealed therein with like intent, or that such corporation or person has removed, or is about to remove, any of his or its property from this State, with intent to defraud his or its creditors, or has assigned. disposed of or secreted, or is about to assign, dispose of or secrete, any of his or its property, with the like intent, whether such defendant be a resident of this State or not. It shall be the duty of the plaintiff procuring such war-served. rant, within ten days after the issuing thereof, to cause the affidavits on which the same was granted to be filed in the office of the Justice of the Peace, Magistrate, or Clerk of the Court of the county in which the action is

When issuable.

When to be

IV. Before issuing the warrant, the Judge, Justice of the Peace, Magis-

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A. D. 1868. trate or Clerk shall require a written undertaking on the part of the plaintiff, with sufficient surety, to the effect that if the defendant recover judgment Plaintiff to the plaintiff will pay all costs that may be awarded to the defendant, and all give surety. damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, which shall be at least one hundred dollars.

Sheriff.

V. The warrant shall be directed to the Sheriff of any county in which Directed to property of such defendant may be, and shall require him to attach and safely keep all the property of such defendant, designating the same, within his county, or so much thereof as may be sufficient to satisfy the plaintiff's demand, together with costs and expenses; the amount of which must be stated in conformity with the complaint. Several warrants may be issued at the same time to the Sheriffs of different counties.

Property to be

VI. The Sheriff to whom such warrant is directed and delivered shall immediately attach all the real estate of such debtor, and all his personal estate, including money and bank notes, except such real and personal estate as is exempt from attachment, levy or sale by the Constitution; and shall take into his custody all books of account, vouchers and papers relating to the property, debts, credits and effects of such debtor, together with all evidences of his title to real estate, which he shall safely keep, to be disposed of as hereinafter directed.

Inventory.

VII. He shall, immediately on making such seizure, with the assistance of two disinterested freeholders, make a just and true inventory of all the property so seized, and of the books, vouchers and papers taken into his custody, stating therein the estimated value of the several articles of personal property, and enumerating such of them as are perishable, which inventory, after being signed by the Sheriff and the appraisers, shall, within ten days after such seizure, be returned to the officer who issued the warrant; and the Sheriff shall, under the direction of such officer, collect, receive and take into his possession all debts, credits and effects of such debtor, and commence such suits, and take such legal proceedings, either in his own name or in the name of such debtor, as may be necessary for that purpose, prosecute and discontinue the same at such times and on such terms as the Court The property so seized, or the proceeds of such as shall have been sold, and debts collected, shall be kept to answer any judgment which may be obtained in such action.

VIII. If any of the property so seized be perishable, the Sheriff shall Per is hable sell the same at public auction under an order of the officer who issued the property. warrant, and shall retain in his hands the proceeds of such sale, after deducting his expenses, to be allowed by such officer, which proceeds shall be disposed of in the same manner as the property so sold would have been

if it had remained unsold.

IX. If any goods or effects seized as the property of the debtor shall be Claims by third claimed by or in behalf of any other person as his property within two days parties. after the appraisement of such property, as set forth in Section 7 of this Act, the claimant or his agent may execute a bond to the Sheriff, with sureties to be approved by him, in a penalty double the amount of such appraised value, conditioned that in a suit to be brought on such bond the claimant will establish that he was the owner of said property at the time of the seizure; and in case of his failure to do so, that he will pay the amount of such valuation, with interest from the date of the bond. Upon such bond bring executed and delivered to the Sheriff, he shall discharge said property from the attachment: Provided, Nothing in this Section shall be construed to prevent the claimant from proceeding in any proper form of action for the recovery of such property or the value thereof.

X. The rights or shares which such defendant may have in the stock of any association or corporation, together with the interest and profits thereon, and all other property in this State of such defendant, shall be liable to be attached and levied upon and sold to satisfy the judgment and execution.

XI. The execution of the attachment upon any such rights, shares, or any debts or other property incapable of manual delivery to the Sheriff, shall be made. made by leaving a certified copy of the warrant of attachment with the President or other head of the association or corporation, or the Secretary, Cashier or managing agent thereof, or with the debtor or individual holding

such property, with a notice showing the property levied upon.

XII. Whenever the Sheriff shall, with a warrant of attachment or execution against the defendant, apply to such officer, debtor or individual, for the purpose of attaching or levying upon such property, such officer, debtor or individual shall furnish him with a certificate, under his hand, designating the number of rights or shares of the defendant in the stock of such association or corporation, with any dividend or any incumbrance thereon, or the amount and description of the property held by such association, corporation or individual for the benefit of, or debt owing to, the defendant. It such officer, debtor or individual refuse to do so, he may be required by the Court or Judge to attend before him and be examined on oath concerning the same, and obedience to such orders may be enforced by attach-

XIII. In case judgment be entered for the plaintiff in such action, the Sheriff shall satisfy the same out of the property attached by him, if it shall be sufficient for that purpose:

1. By paying over to such plaintiff the proceeds of all sales of perishable property, and of any debts or credits collected by him, or so much as shall

be necessary to satisfy such judgment.

2 If any balance remain due, and execution shall have been issued on such judgment, he shall proceed to sell under such execution so much of the attached property, real or personal, except as provided in sub-division four of this Section, as may be necessary to satisfy the balance, if enough for that purpose shall remain in his hands; and in case of the sale of any rights or shares in the stock of a corporation or association, the Sheriff shall execute to the purchaser a certificate of sale thereof, and the purchaser shall thereupon have all the rights and privileges, in respect thereto, which were had by said defendant.

3. If any of the attached property belonging to the defendant shall have Repossession, passed out of the hands of the Sheriff without having been sold or converted into money, such Sheriff shall repossess himself of the same, and for that purpose shall have all the authority which he had to seize the same under the attachment; and any person who shall wilfully conceal or withhold such property from the Sheriff shall be liable to double damages, at the

suit of the party injured.

1. Until the judgment against the defendant shall be paid, the Sheriff Remainder may proceed to collect the notes and other evidences of debt, and the debts plaintiff. that may have been seized or attached under the warrant of attachment,

A. D. 1868.

Stocks liable.

Execution how

Cartificate.

Satisfaction.

To plaintiff.

A. D. 1868.

and to prosecute any bond he may have taken in the course of such proceedings, and apply the proceeds thereof to the payment of the judgment. When the judgment and all costs of the proceedings shall have been paid, the Sheriff, upon reasonable demand, shall deliver over to the defendant the residue of the attached property or the proceeds thereof.

Sureties.

XIV. The actions herein authorized to be brought by the Sheriff may be prosecuted by the plaintiff, or under his direction, upon the delivery by him to the Sheriff of an undertaking executed by two sufficient sureties, to the effect that the plaintiff will indemnify the Sheriff for all damages, costs and expenses on account thereof, not exceeding two hundred and fifty dollars in Such sureties shall, in all cases, when required by the Sheriff, justify his making an affidavit that each is a householder and worth double the amount of the penalty of the bond, over and above all demands and liabilities.

XV. If the foreign corporation, or absent, or absconding; or concealed dc-Foreign corpo-fendant, recover judgment against the plaintiff in such action, any bond taken by the Sheriff, except such as are mentioned in the preceding Section. all the proceeds of sales and money collected by him, and all the property attached remaining in his hands, shall be delivered by him to the defendant or his agent, on request, and the warrant shall be discharged and the property released therefrom.

Release attachment.

XVI. Whenever the defendant shall have appeared in such action, he from may apply to the officer who issued the attachment, or to the Court, for an order to discharge the same; and if the same be granted, all the proceeds of sales and moneys collected by him, and all the property attrached remaining in his hands, shall be delivered or paid by him to the defendant or his agent, and released from the attachment; and where there is more than one defendant, and the several property of either of the defendants has been seized by virtue of the order of attachment, the defendant whose several property has been seized may apply to the officer who issued the attachment for relief under this Section. XVII. Upon such application the defendant shall deliver to the Court or

Bond for sure- officer an undertaking, executed by at least two sureties, who are residents and freeholders or householders in this State, approved by such Court or officer, to the effect that the sureties will, on demand, pay to the plaintiff the amount of judgment that may be recovered against the defendant in the action, not exceeding the sum specified in the undertaking, which shall be at least double the amount claimed by the plaintiff in his complaint. shall appear by affidavit that the property attached be less than the amount claimed by the plaintiff, the Court or officer issuing the attachment may order the same to be appraised, and the amount of the undertaking shall then be Notice to dis-double the amount so appraised; and in all cases the defendant may move to discharge the attachment; and where there is more than one defendant, and the several property of either of the defendants has been seized by virtue of the order of attachment, the defendant, whose several property has been seized, may deliver to the Court or officer an undertaking, in accordance with the provisions of this Section, to the effect that he will, on demand, pay to the plaintiff the amount of judgment that may be recovered against such defendant, and all the provisions of this Section applicable to such under-

XVIII. When the warrant shall be fully executed or discharged, the

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taking shall be applied thereto.

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Sheriff shall return the same, with his proceedings thereon, to the Court in which the action was brought.

A. D. 1868.

Fee .

XIX. The fees and compensation of the Sheriff for services under this Act shall be assimilated to those now allowed by law for similar or equiva-

XX. Distress for non-payment of rent, as heretofore existing, is abolished. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

In the Senate House, the twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO PROVIDE FOR THE PAYMENT OF THE MILEAGE AND PER DIEM OF THE MEMBERS AND OF THE EMPLOYEES OF THE GENERAL Assembly.

No. 52.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Clerk of the Senate and Sergeant at Arms of the House be, and are hereby, authorized to furnish each member of the respective branches of this General Assembly with a certificate of the amount of his mileage and per diem, due him from the first of September, 1868, to the last day of the present session, inclusive, as he may direct.

Certificates.

II. That the certificates shall be made out at the rate of mileage and per diem established by the new Constitution of South Carolina, and each cer- To be signed by presiding officer. tificate of the Senators shall be certified to by the President of the Senate, and the certificates of the members of the House by the Speaker, and shall be paid in Bills Receivable, to the value of United States currency, at current rates of exchange, such rate to be fixed by the Treasurer of the State; and each certificate shall have the amount due the holder in legal tender, and the amount in Bills Receivable required to pay the same at the rates

III. That the subordinate officers and employees of this General Assembly Officers and emshall, in like manner, be furnished with certificates as aforesaid, except as to ployees.

IV. That the Treasurer of this State is hereby authorized to pay the said certificates out of Bills Receivable in the Treasury of the State of South pay. Carolina, at the current rates, as provided in Section 2 of this Act, and hold the certificates as his receipts therefor.

In the Senate House, the twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

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A. D. 1868. AN ACT TO PUNISH DISCRIMINATION IN THE TREATMENT OF PRISONERS BY JAILERS AND SHERIFFS.

No. 53.

I. Be it enacted by the Senate and House of Representatives of the State No discrimination of South Carolina, now met and sitting in General Assembly, and by the i tion. authority of the same. That from and after the passage of this Act it shall be unlawful for Sheriffs or Jailers to make any discrimination in the treatment of prisoners placed in their custody.

Pen div.

II. Every violation of this Act shall be a misdemeanor, and upon conviction thereof the party convicted shall be fined not less than twenty-five dollars, and imprisoned for not less than one month, nor more than twelve months.

In the Senate House, the twenty-fifth day of September. in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE No. 54. INSPECTION OF FLOUR."

Be it enacted by the Senate and House of Representatives of the State of South Caroline, now met and sitting in General Assembly, and by the Amendment of authority of the same, That the Act entitled "An Act to provide for the Act of December inspection of flour," ratified on the twentieth day of December, in the year 20, 1850. of our Lord one thousand eight hundred and fifty, be, and the same is hereby, so amended that hereafter flour of wheat, rye or corn, manufactured in the city of Charleston for export to any other port or ports beyond the limits of the State, shall not be liable to inspection in the said city of Charleston.

> In the Senate House, the twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOFT, Governor.

- AN ACT to provide for the election of the officers of the Incor-No. 55. PORATED CITIES AND TOWNS IN THE STATE OF SOUTH CAROLINA.
- 1. Le it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Election to be authority of the same, That His Excellency the Governor shall, on or imordered. mediately after the passage of this Act, order an election to be held on the second Tuesday of November, in the year 1868, in all incorporated cities and towns of this State for the election of all officers provided for by the charters of the said cities and towns.

II. The Managers of Elections appointed in pursuance of an Act of the General Assembly, passed at the special session of 1858, entitled "An Act to provide for the next general election," are hereby authorized and required Managers of to conduct the elections herein provided for, and all subsequent elections that may be ordered to be held in such cities and towns, until otherwise provided for by law

III. In order to secure the free expression of all persons qualified to vote as hereinafter provided, the Managers of Election shall open their respective polling places for three (3) days next preceding the day fixed for the election herein provided for, commencing at 7 o'clock A. M., and closing at 5 o'clock P. M., each day, and shall during these days record the names of all qualified electors and their place of residence in a book to be furnished by them, the Managers. All persons who present themselves for such registration shall, before their names are recorded, take and subscribe to the following outh: I, ---———, do solemnly swear (or affirm) that I am a citizen of the United States; that I have been an inhabitant of this State for one year next preceding this day, and for the last sixty days a resident of this city (town or village, as the case may be); that I reside in this ward (or polling precinct). The Managers shall, after the election, turn deposited. over the registration books to the Mayor or Intendant, who shall cause the same to be put up in a safe and secure place. They shall receive a sum of money to cover expenditures for books, stationery, &c., together with their pay as herein allowed from the Treasury of such city, town or village wherein such election is held.

Registration.

To be securely

IV. The qualifications of an elector shall be those required by the Constitution, together with a residence of sixty days next preceding the election, of voters, within the corporate limits of the city or town, and that he has been duly

registered in the ward or precinct in which he offers to vote.

V. The Managers of Election shall meet at 10 o'clock A. M. on the day Counting of succeeding such election, at some public place within the corporate limits of votes.

the city or town in which such election is held, and proceed to count the votes, under oath, stating the whole number of votes cast for each candidate or person voted for, and shall transmit their report of the same in a sealed Return the same in a seal envelope to the acting Mayor or Intendant of the city or town wherein they have been appointed; and if there be no acting Mayor or Intendant in any such city or town, or in the absence of such Mayor or Intendant, the same shall be transmitted to the Clerk of Court for the county in which said city or town may be. The said Mayor or Intendant, or Clerk of Court, shall open the report of said Managers, and shall announce and publish the Announcement whole number of votes cast and the whole number cast for each candidate, when the several candidates receiving the largest number of legal votes for the offices for which they were voted for shall be declared duly elected. Managers of Election shall decide contested cases, subject to the ultimate decision of the Boards of Aldermen or Wardens, when organized, except

when the election of a majority of the persons voted for are contested, or the Managers charged with illegal conduct, in which case the returns, together with the ballots, shall be examined and the case investigated by

the acting Board of Aldermen, who shall declare the election, and their de-

Contested cases.

VI. In all elections held in accordance with this Act the polls shall be Opening of opened at 7 o'clock A. M., and kept open during one day at all the polling polls.

cision shall be binding upon all parties.

A. D. 1868. precincts and in the various wards, and shall close at 5 o'clock P. M. Each ward in the city of Charleston shall constitute at least one polling precinct.

VII. The officers elected under this Act shall, on taking the oath preofficers elected scribed in the Constitution, be inducted into office on the Monday succeeding their election, and shall immediately enter upon the discharge of their official duties.

VIII. Said officers shall hold their offices up to the regular time fixed by Term of office charter for the election of the same and for one full term thereafter, and until their successors are duly elected and qualified, the oath of office may be administered by any officer of the State who is authorized by law to administer the same.

IX. The Managers of Elections shall receive as compensation for their services the sum of two dollars per day for the time actually employed in of Managers. such election, and also for the time employed in the registration of voters.

X. All bar-rooms and drinking saloons in the town or city where such Closing of bar-election is held shall be closed on the days of election, and any person who rooms. shall sell to any person any intoxicating drinks on the day of election shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than one hundred dollars nor more than three hundred dollars, or be imprisoned for a period not less than one month nor more than six months

XI. All statutes providing against illegal voting, or the bribery and in-Illegal voting timidation of voters, passed heretofore, and not inconsistent with the present Constitution, are continued in full force; but all Acts or parts of Acts inconsistent therewith, or supplied by this Act, are hereby repealed.

> In the Senate House, the twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO MEET CONTINGENT FXPENSES IN THE OFFICES OF THE No. 50. COMPTROLLER-GENERAL AND TREASURER OF THE STATE.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Appropriation authority of the same, That the sum of two thousand dollars, if so much be necessary, be, and the same is hereby, appropriated to the payment of contingent expenses in the offices of the Comptroller-General and Treasurer of the State.

> In the Senate House, the twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT to license certain persons, herein named, to act as Pilots, AND TO PROVIDE THE TERMS UPON WHICH THEY SHALL HEREAFTER BE LICENSED.

A. D. 1868. No. 57.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Tom Vincent, Thomas Smith, S. W. Wigg, censed. York Moultrey, Robert Davis, Gabriel Pinkney, Geo. R. Wilson and Edward Jenkins be, and they are hereby, licensed to act as pilots for the bar and harbor of Charleston, Stono River, St. Helena Sound, Port Royal, and all other navigable streams and rivers in this State: Provided, That they shall be first examined and approved by a Board of Commissioners to consist of Board of Comthree senfaring men, one of whom shall be a first class pilot, to be appointed by the Governor of the State. Said Board shall be, and is hereby, authorized to grant license for pilots as 1st, 2d, 3d and 4th class, as they may be entitled from their skill and knowledge of the business.

Tersons li-

Proviso.

II. Hereafter it shall be lawful for any person or persons to act as pilots in this State who shall be examined and approved by the Board of Con mis-Persons authorized to not as sioners herein provided for. And the pilots appointed in accordance with pilots. the provisions of this Act shall be governed by the laws heretofore in force, except so far as the same may be inconsistent with the present Constitution of this State or the provisions of this Act.

III. The members of the Board of Commissioners herein provided for shall hold their office for two years, unless sooner removed by the Governor. When a vacancy occurs a new appointment shall be made for the full term.

IV. All Acts and parts of Acts inconsistent with this Act, or supplied by it, are hereby repealed.

In the Senate House, the twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO PROVIDE FOR THE FORMATION AND PROCEEDINGS OF THE No. 58. COLLEGES OF ELECTORS.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The Electors of President and Vice-President shall convene at the capital, in some convenient place, on the day preceding the Electoral College first Wednesday in December after their election; and those of them who shall be so assembled at 4 o'clock in the afternoon of that day shall immediately after that hour proceed to fill by ballot and by plurality of votes all vacancies in the Electoral College occasioned by the death, refusal to serve, or neglect to attend at that hour, of any Elector, or occasioned by an equal number of votes having been given for two or more candidates.

II. The Electoral College being thus completed, they shall then choose Presider. President and

a President and Secretary from their own body.

III. The Secretary of State shall prepare three lists of the names of the Duties of Rec-Electors, procure to the same the signature of the Governor, affix thereto the retary of state.

A. D. 1868. seal of the State, and deliver them, thus signed and sealed, to the President of the College of Electors on or before the said first Wednesday in Decomber.

IV. On the said first Wednesday in December the Electors shall meet at Vote by ballot some convenient place at the capital, and then and there vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves. They shall name in their ballots the persons voted for as President, and in distinct ballots the persons voted for as Vice President.

V. They shall make distinct lists of all persons voted for as President certified lists and of all persons voted for as Vice-President, and of the number of votes of condidates for each, which lists they shall sign and certify; and after annexing thereto one of the lists received from the Secretary of State, they shall seal up the same, certifying thereon that lists of the votes of this State for President and Vice-President are contained therein.

VI. The Electors shall then, by writing under their hands, or under the Appoint a mes-hands of a majority of them, appoint a person to take charge of the lists so seuger. sealed up, and to deliver the same to the President of the Senate at the seat of Government of the United States before the first Wednesday in January then next ensuing.

VII. In case there shall be no President of the Senate at the scat of Where to be Government on the arrival of the person entrusted with the lists of the delivered. votes of the Electors, then such person is required to deliver the lists of the votes in his custody into the office of the Secretary of State of the United

VIII. The Electors are also required to forward forthwith, by the post Duplicate office, to the President of the Senate of the United States, at the seat of copies. Government, and to deliver forthwith to the Judge of the United States for the District of South Carolina similar lists, signed, annexed, sealed up and certified in the manner aforesaid.

IX. Every Elector of this State for the election of a President and Compensation Vice-President of the United States, who shall attend at any election of those officers and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, and for traveling to and from his place of residence, by the most usual route, the same sum as shall at the time be allowed by law to members of the General Assembly for their attendance and travel, to be paid in like manner.

> In the Senate House, the twenty-fitth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT to establish quarantine at Georgetown, Charleston and No. 59. HILTON HEAD.

I. Be it enacted by the Senate and House of Representatives of the State Anchorages. of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The anchorage ground for vessels at quarantine at the ports of Georgetown, Charleston and Hilton Head shall be where it has use#pd-google http://www.hathitrust.org/access lieretofore been, and shall be designated by buoys to be anchored under the direction of the health officers; and every vessel subject to quarantine shall, immediately on her arrival, anchor within them, and there remain, with all persons arriving on her, subject to the examination and regulations imposed

For the purposes of quarantine the port at Hilton Head shall be held to include the port of Beaufort.

Term of quar-

A. D. 1868.

II. Vessels arriving at the ports of Georgetown, Charleston and Hilton Head shall be subject to quarantine as follows: 1. All vessels from any antine. place where pestilential, contagious or infectious disease existed at the time of their departure, or which shall have arrived at such place and proceeded thence to either of said ports, or on board of which, during the voyage, any case of such disease shall have occurred, arriving between the first day of May and the first day of November, shall remain at quarantine for at least thirty days after their arrival, and at least twenty days after their cargo shall have been discharged, and shall perform such further quarantine as the health officers may prescribe. 2. All vessels from any place (including islands) in Asia, Africa or the Mediterranean, or from any of the West Indies, Bahama, Bermuda or Western Islands, or from any place in America in the ordinary passage from which they pass south of Hilton Head; and all vessels on board of which, during the voyage, or while at the port of their departure, any person shall have been sick, arriving between the first day of May and the first day of November, and all vessels from a foreign port, and not embraced in the first sub-division of this Section, shall, on arrival at the quarantine ground, be subject to visitation by the health officers, but shall not be detained beyond the time requisite for due examination and observation, unless they shall have had on board during the voyage some case of infectious, contagious or pestilential disease, in which case they shall be subject to such quarantine and regulations as the health officers may prescribe. 3. All vessels embraced in the foregoing provisions, which are navigated by steam, shall be subject only to such length of quarantine and regulations as the health officer shall enjoin, unless they shall have had on board during the voyage some case of infectious, contagious or pestilential disease, in which case they shall be subject to such quarantine as the health officer shall prescribe.

III. All vessels and persons remaining at quarantine on the first day of November shall thereafter be subject to such quarantine and restrictions as

vessels and persons arriving on and after that day.

IV. The health officer, Intendant and Wardens, or the Mayor and Aldermen, as the case may be, whenever in their judgment the public health shall ordered to quarrequire, may order any vessel at the wharves of either of said ports, or in antine. their vicinity, to the quarantine ground or other place of safety, and may require all persons, articles or things introduced into said ports from such vessels, to be seized, returned on board, or removed to the quarantine ground or other place. If the master, owner or consignee of the vessel cannot be found, or shall refuse or neglect to obey the order of removal, the health officer, Intendant and Wardens, or Mayor and Aldermen, as the case may be, shall have power to cause such removal at the expense of such master, owner or consignee, and such vessel or person shall not return to the port without the written permission of the health officer.

V. If any vessel arriving at the quarantine ground, subject to quarantine, May be permitshall be bound to some port north of either of said ports, the health officer, ted to pass.

Vessels may be

officer.

A. D. 1868. after having duly visited and examined her, may permit her to pass on her voyage, but no such vessel shall be brought to anchor off of either of said ports, nor shall any of her crew or passengers land in or hold any communication with either of said ports or any person therefrom.

VI. The master of every vessel released from quarantine and arriving at Permit to be a wharf in either of said ports, shall, within twenty-four hours after such release, deliver the permit of the health officer at the office of the Mayor or

Intendant, as the case may be.

VII. Nothing in this Act shall prevent any vessel arriving at quarantine

from again going to sea before breaking bulk.

VIII. It shall be the duty of each pilot belonging to either of the said Duty of pilots, ports to use his utmost endeavors to hail every vessel he shall discover entering the port, and to interrogate the master of such vessel in reference to all matters necessary to enable such pilot to determine whether, according to the provisions of the preceding Sections, such vessel is subject to quarantine or examination by the health officer.

> IX. If from the answers obtained from such inquiries it shall appear that such vessel is subject to quarantine or examination by the health officer, according to the preceding Sections, the pilot shall immediately give notice to the master of the vessel that he, his vessel, his cargo, crew and passengers, are subject to such examination, and that he must proceed and anchor said vessel at the quarantine anchorage, there to await the further directions of the health officer.

X. It shall be the duty of every pilot, who shall conduct into port a

vessel subject to quarantine or examination by the health officer,

1. To bring such vessel to anchor within the buoys marking the quarantine anchorage.

2. To prevent any vessel or boat from coming along side of the vessel under his charge, and to prevent anything on board from being transferred to or thrown into any other vessel or boat.

3. To present to the master of the vessel a printed copy of this Act,

when such copy shall have been delivered to him for that purpose.

4. To take care that no violations of this Act be committed by any person, and to report such as shall be committed, as soon as may be, to the health officer.

5. To subject himself to such detention and delay, and cleansing and purification as to his person and clothing, as shall be prescribed by the health officer after having boarded or brought to the quarantine ground any

vessel subject to quarantine.

XI. It shall be the duty of the health officer to board every vessel sub-Duty of health ject to quarantine or visitation by him immediately on her arrival, between sunrise and sunset; to inquire as to the health of all persons on board, and the condition of the vessel and cargo, by inspection of the bill of health, manifest, log-book or otherwise; to examine on oath as many, and such persons on board as he may judge expedient to enable him to determine the period of quarantine and the regulations to which such vessel shall be made subject, and report the facts and his conclusions, and especially to report the number of persons sick, and the nature of the disease with which they are afflicted, to the Mayor or Intendant, in writing.

XII. It shall be the duty of the health officer to reside within or near

the quarantine ground, and he shall have power:



1. To remove from the quarantine anchorage ground any vessel he may deem dangerous to the public health to any place south or east of the quarantine ground inside the bar.

2. To cause any vessel under quarantine, when he shall judge it neces-health officer. sary for the purification of the vessel or her cargo, passengers, or crew, or either of them, to discharge or land the same at the quarantine ground.

3. To cause any such vessel or cargo, bedding, and the clothing of persons on board, to be ventilated, cleansed and purified in such manner, and during such time, as he shall direct, and if he shall judge necessary to prevent infection or contagion, to destroy any portion of such bedding or clothing; and with the concurrence of the Mayor or Intendant, any portion of such cargo which may be deemed incapable of purification.

4. To prohibit and prevent all persons arriving in vessels subject to quarantine from leaving quarantine, or removing their goods or baggage therefrom, until fifteen days after the last case of pestilential, contagious or infectious disease shall have occurred on board, and ten days after her arrival at

quarantine, unless sooner discharged by him.

5. To permit the cargo of any vessel under quarantine, or any portion thereof, when he shall judge the same free from infection and contagion, to be conveyed to the landing.

6. To cause all persons under quarantine to be vaccinated, when he deems

it necessary for the preservation of the public health.

7. To administer ouths and take affidavits in all examinations prescribed by this \mathbf{A} ct, and in relation to any alleged violation of quarantine law or regulation; such oath to have the like validity and effect as oaths administered

by a Justice of the Peace or Magistrate.

XIII. The health officer may direct in writing any Sheriff, Constable or other citizen, to pursue and apprehend any person, not discharged, who shall elope from quarantine, or who shall violate any quarantine law or regulation, rests. or who shall obstruct the health officer in the performance of his duty, and to deliver him to said officer to be detained at quarantine until discharged by said officer, but such confinement shall in no case exceed ten days. be the duty of the Sheriff, Constable or other citizen, so directed, to obey such direction; and every such person so eloping, or violating quarantine law and regulations, or obstructing the health officer, shall be considered guilty of a misdemeanor, punishable with fine and imprisonment, in the discretion of the Court.

XIV. Every vessel during her quarantine shall be designated by colors to vessels at quar-

be fixed in a conspicuous part of her main shrouds.

XV. No vessel or boat shall pass through the range of vessels lying at quarantine, or land at the quarantine grounds, without the permission of the health officer.

XVI. No lighter shall be employed to load or unload vessels at quarantine without permission of the health officer, and subject to such restrictions

and regulations as he shall impose.

XVII. All persons being on board of vessels under quarantine shall be provided for by the master of the vessel in which they shall have arrived; and if the master shall omit or refuse to provide for them, or they shall have board to be probeen sent on shore by the health officer, they shall be maintained at the expense of such vessel, her owners, consignees, and each and every one of them ; and the health officer shall not permit such vessel to leave quarantine until such

May order ar-

A. D. 1868.

expense shall have been repaid or secured; and the said health officer shall have an action against such vessel, her owners and consignees, and each and every one of them, for such expenses, which shall be a lien on such vessel, and as such may be enforced as other liens on vessels

confined.

XVIII. The health officer, upon the application of the master of any ves-Persons may be sel under quarantine, may confine in any suitable place on shore any person on board of such vessel charged with having committed an offence punishable by the laws of this State or the United States, and who cannot be secured on board of such vessel; and such confinement may continue during the quarantine of such person, or until he shall be proceeded against in due course of law; and the expense thereof shall be charged and collected as in the last preceding Section.

Apped.

XIX. Any person aggrieved by any decision, order or direction of the health officer, may appeal therefrom to the Governor, Attorney-General and Comptroller-General, who shall constitute a Board of Appeal; the said Board shall have power to affirm, reverse or modify the decision, order or direction appealed from, and the decision of the Board thereon shall be final.

ing.

XX. An appeal to the Board of Appeal must be made by serving upon Mode of serv- the health officer a written notice of such appeal, within twelve hours (Sundays excepted) after the appellant receives notice of the order, decision or Within twelve hours after the health officer redirection complained of. ceives such notice (Sundays excepted) he shall make a return, in writing, including the facts on which his order, decision or direction was founded, to the Governor, who shall immediately call a meeting of the Board of Appeal, and shall be President of said Board; and said appeal shall be heard and decided within twenty-four hours thereafter (Sundays excepted); and until such decision is made, the order, decision or direction complained of, except it refer to the detention of a vessel, her cargo or passengers at quarantine, shall be surpended.

XXI Whenever the said health officer, in the performance of the duties To enforce or and in the execution of the powers imposed and conferred upon him by law, shall order or direct the master, owner or consignee of any vessel under quarantine to remove such vessel from her anchorage, or to do any act or thing, or comply with any regulation relative to said vessel, or to any person or thing on board thereof, or which shall have been brought to said ports therein, and said master, owner or consignee shall neglect or refuse to comply with such order or direction, the said health officer shall have power to employ such persons and assistants as may be necessary to carry out and enforce such order or direction, and the pursons so employed shall have a lien on such vessel, her tackle apparel and furniture, for their services and expenses.

XXII. Every person who shall oppose or obstruct the health officers in Penalty of vio- performing the duties required of them by law, and every person who shall go on board, or have any communication, intercourse or dealing with, any vessel under quarantine, or with any of her crew or passengers, without the permission of the health officer, or who shall, without such permission, invade the quarantine grounds or anchorage, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment not less than three nor more than six months in the pecitentiary.

XXIII. The Governor may issue his proclamation declaring any place

where there shall be reason to believe a pestilential, contagious or infectious disease exists or may exist, to be an infected place within the meaning of this Act.

A. D 1868.

XXIV. Such proclamation shall fix the period when it shall cease to have Time may be effect; but such period, if he shall judge the public health require it, may extended. from time to time be extended, and notice of the same shall be published in all the newspapers of said ports.

XXV. After such proclamation shall have been issued, all vessels arriving in either of the said ports from such infected place shall be subject to the same quarantine laws and regulations as the vessels embraced in the first to. sub-division of the second Section of this Act, and shall, together with their officers, crews, passengers and cargoes, be subject to all the provisions, regulations and penaltics of this Act, in relation to vessels subject to quarantine; but such quarantine shall not extend beyond the period when such proclamation shall cease to have effect, as provided by the last preceding Section.

XXVI. Every master of a vessel subject to quarantine or visitation by the health officer, arriving in either of the said ports, who shall refuse or ters of vessels.

1. To proceed with and anchor his vessel at the place assigned for quarantine at the time of his arrival;

2. To submit his vessel, cargo and passengers to the examination of the health officer, and to furnish all necessary information to enable that officer to determine what length of quarantine and other regulations they ought

respectively to be subject: or,

3. To remain with his vessel at quarantine during the period assigned for her quarantine, and while at quarantine to comply with the directions and regulations prescribed by law, shall be guilty of a misdemeanor, and be punished by fine not exceeding two thousand dollars, or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

Penalty.

XXVII. Every master of a vessel hailed by a pilot, who shall either: 1. Give false information to such pilot, relative to the condition of his vessel, crew or passengers, or of the health of the place or places from whence he came, or refuse to give such information as shall be lawfully re-

2. Or, land any person from his vessel, or permit any person except a pilot to come on board of his vessel, or unlade or tranship any portion of his cargo before his vessel shall have been visited and examined by the

health officer 3. Or, shall approach with his vessel nearer to the wharves in said ports than the place of quarantine, to which they may be directed, shall be guilty of the like offence and subject to the like punishment; and any person who shall land from any vessel, or unlade or tranship any portion of her cargo under like circumstances, shall be guilty of the like offence and subject to the like punishment.

XXVIII. Any person who shall violate any provision of this Act, or neglect or refuse to comply with the directions and regulations which any dividuals of the health officers may prescribe, shall be guilty of the like offence, and be subject for each offence to the like punishment.

XXIX. There shall be one health officer at the port of Georgetown, one at Charleston, and one at Hilton Head, respectively, who shall be appointed

A. D. 1868. by the Governor, and who shall hold their offices for the term of two years, unless sooner removed; said officers shall keep a faithful record of all their doings under the provision of this Act, and report the same to the Governor at the end of each month.

XXX. Said health officers shall each receive an annual salary of twelve Compensation hundred dollars, except the health officer at the port of Charleston, who shall receive an annual salary of fifteen hundred dollars, payable quarterly, out of the Treasury of the State; and they each shall be allowed an additional sum of fifteen dollars per month for boat hire and other incidental expenses.

> In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Spraker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

No. 60. AN ACT TO RENEW THE CHARTER OF THE FERRY ACROSS THE SALUDA RIVER, IN THE COUNTY OF NEWBERRY, KNOWN AS ISLAND FORD FERRY.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Ferry re char- authority of the same. That the ferry over the Saluda River, known as Island Ford Ferry, be, and the same is hereby, re-chartered and vested in Thomas G. White, his heirs and assigns, for the term of ten years, who shall be allowed the same rates of toll as are now authorized by law.

> In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MUSES, JR., Speaker House of Representatives. Appreved: Robert K. Scott, Governor.

No. 61. AN ACT to declare the roads leading from Gervais street, in THE CITY OF COLUMBIA, TO KINSLER'S FERRY, AND FROM KINSLER'S FERRY TO THE STATE ROAD, ON THE WESTERN SIDE OF THE CONGAREE LIVER, PUBLIC HIGHWAYS.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Public high-authority of the same, That the road leading from Gervais street to Kinsler's waye. Ferry, near the city of Columbia, and the road leading from said ferry on the western side of the Congaree River to the State Road, be, and the same are hereby, declared to be public highways.

> In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K SCOTT, Governor.

use#pd-google http://www.hathitrust.org/access AN ACT TO ESTABLISH A BUREAU OF AGRICULTURAL STATISTICS FOR THE ENCOURAGEMENT OF INDUSTRIAL ENTERPRISES, AND TO INVITE CAPITAL TO SOUTH CAROLINA, FOR THE DEVELOPMENT OF THE RE-SOURCES OF THE STATE.

A. D. 1868. No. 62.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That for the purpose of encouraging, promoting and protecting industrial enterprises in this State, and of supplying truthful statistics. information to the people of the United States, and inducing them to bring hither their capital and aid in the development of the resources of South Carolina, the Governor is hereby authorized to establish a Burcau of Agricultural Statistics, and to appoint a Commissioner thereof to perform such duties as may appertain to the office.

Commissioner

II. It shall be the duty of the said Commissioner to collect all the information practicable concerning lands, crops, climate, railroads, telegraphs, missioner. manufactories, water powers, schools, churches, and other institutions in the several counties of the State, and preserve a record of the same, in such manner that the facts relating to any locality may be promptly communicated to the enquirer.

Duties of Com-

III. That the said Commissioner shall be specially charged to ascertain, by advertisement or otherwise, the location of lands for sale, and to cause Location lands for sale, said lands, after having been duly laid off and described, to be registered,

Location of

together with the price demanded and the conditions of payment. IV. That the said Commissioner shall, by official publications in the journals of the North and West, by correspondence and pamphlets, convey this information, describe the lands thus offered for sale, and the advantages which this State offers in soil, climate, productions, and-so-forth, to the industrious and frugal citizen, and at the same time invite him to bring hither his means and aid in the promotion of general prosperity.

V. That the said Commissioner shall be charged with the duty of answering all communications on the subject of the resources of the State that quiries. may be referred to him, and do all in his power to encourage the influx of

To answer in-

capital and the growth of new enterprise.

VI. That the Commissioner shall be paid for his services the salary of fifteen hundred dollars per annum, and be authorized to employ a clerk at a salary not exceeding five hundred dollars per annum; the said sums, together with the necessary expenses of the office, such as printing, advertising, registry books, postage, stationery, rent, and-so forth, to be paid from the balance of the appropriation made under the Act of December, 1866, entitled "An Act for the encouragement and protection of European immigration, &c."

VII. That the said Commissioner shall make a report of his proceedings, and a special report on railroads and telegraphs, to the Governor of the State annually, or as often as he may require.

VIII. That all Acts inconsistent with the provisions of this Act are hereby repealed.

In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

year.

A. D. 1868.

AN ACT TO REGULATE THE MANNER OF DRAWING JURIES.

I. Be it enacted by the Senate and House of Representatives of the State No. 63. of South Carolina, now met and sitting in General Assembly, and by the authority of the same, All persons who are qualified to vote in the choicelof Representatives in the General Assembly shall be liable to be drawn and

serve as jurors, except as hereinafter provided

II. The following persons shall be exempt from serving as jurors, to wit: Persons ex-the Governor, Lieutenant-Governor, Attorney General, Comptroller General, empt. State Auditor, State Treasurer, Secretary of State, members and officers of the Senate and House of Representatives during the session of the General Assembly, Judges and Justices of any Court (except Justices of the Peace), County Commissioners, County Auditors and Treasurers, Clerks of Courts, Registers of Mesne Conveyances, Sheriffs and their deputies, Coroners, Constables, the Marshals of the United States and their deputies, and all other officers of the United States, counsellors and attorneys at law, ordained ministers of the Gospel, officers of colleges, preceptors and teachers of incorporated academics, practicing physicians and surgeons regularly licensed, cashiers and tellers of incorporated banks, editors of daily newspapers, constant ferrymen, such officers and employees of railroads as are now exempt by law, and persons who are more than sixty-five years old.

> III. No person shall be liable to be drawn and serve as a juror in any Court oftener than once in every year, but he shall not be so exempt unless he actually attends and serves as a juror in pursuance of the draft: Provided, No person shall be exempt from serving on a jury in any other Court

in consequence of his having served before a Justice of the Peace.

IV. The Selectmen of each town shall once in every year prepare a list of Manner of such inhabitants of the town not absolutely exempt, as they think well drawing. qualified to serve as jurors, being persons of good moral character, of sound judgment, and free from all legal exceptions; which list shall include not less than one for every twenty voters of the town, and not more than one for every ten voters, computing by the first registration after the passage of this Act, and thereafter in each year computing by the last registration.

V. The list, when so prepared, shall be posted up by the Selectmen in two List posted up. public places in the town or city ten days at least before it is submitted for revision and acceptance, and shall then be laid before any regularly called town meeting; and the town meeting may alter it by adding the names of

any person liable to serve or striking any names therefrom.

VI. Of the list adopted by the town, the Selectmen shall cause the names to be written each on a separate paper or ballot, and shall roll up or fold the ballots so as to resemble each other as much as possible and so that the name written thereon shall not be visible on the outside, and they shall place the ballots in a box to be kept by the Town Clerk for that purpose.

VII. If any person, whose name is so placed in the jury box, is convicted of any scandalous crime, or is guilty of any gross immorality, his name shall be withdrawn therefrom by the Selectmen, and he shall not be returned as a juror.

VIII. The County Clerks in each county, at least fifteen days before Write for in-the commencement of any regular term of the Court of General Sessions for the county, and ten days before any special session requiring a jury, and in the County of Charleston like periods before the first of each alter-

Disqualified.

List box.

nate wick of the Court of Common Pleas, and at such other times as the respective Courts may order, shall issue writs of venire facias for jurors, and shall therein require the attendance of jurors on the first day of the term, and for the Court of Common Pleas for the County of Charleston on the first and each alternate week thereafter, and such other days as the Courts The petit jurors returned for the Court of General Sessions for Charleston County shall serve for the term, and the jurors returned for the Court of Common Pleas for two weeks.

IX. The Clerks in issuing the venires shall require from each town and city a number of jurors as nearly as may be in proportion to their respective tioned to populanumber of inhabitants, so as to equalize, as far as possible, the duty of

serving as jurors.

X. The renires shall be delivered to the Sheriff of the county, and by him transmitted to a Constable in each of the towns and cities to which they mitted to Sherim. are respectively issued, and they shall be served by the Constable without

delay on the Selectmen and Town Clerk. XI. Nothing contained in the preceding Sections shall prevent any Court from issuing venires for additional jurors in term time, whenever it is neces-rors. sary for the convenient disputch of their business; in which case the venires shall be served and returned, and the jurors required to attend on such days

as the Court shall direct.

XII. When a suit is pending in the Circuit Court, wherein the inhabitants of any town in the county are interested, the Judge of the Court, in estedterm time or in vacation, may order the Clerk of the Court to issue writs of venire fucias for a sufficient number of jurors to try such cause, from any town whose inhabitants are not so interested, and the Clerk shall issue a venire facias accordingly.

XIII. All jurors, whether required to serve on grand or petit jury, shall Drawing Juries. be selected by drawing ballots from the jury box, and the persons whose names are borne on the ballots so drawn shall be returned to serve as jurors.

XIV. When jurors are to be so drawn the Town Clerk and Selectmen shall attend at the Clerk's office, or some other public place appointed for the purpose, and if the Clerk is absent the Selectmen may proceed without The balance in the jury box shall be shaken and mixed together, and one of the Selectmen, without seeing the names written thereon, shall openly draw therefrom a number of ballots equal to the number of jurors required. If a person so drawn is exempt by law, or is unable by reason of sickness or absence from home to attend as a juror, or if he has served as a juror in any Court within the year then next preceding, his name shall be returned into the box, and another drawn in his stead.

XV. When a person is drawn and returned to serve as a juror in any Court the Selectmen shall endorse on the ballot the date of the draft, and names. return it into the box; and whenever there is a revision and renewal of the ballots in the box the Selectmen shall transfer to the new ballots the date of

all the drafts made within the year then next preceding.

XVI. Any town may, at a legal meeting, order that all drafts for jurors therein shall be made in open town meeting; in which case the draft shall in town meeting. be made by the Selectmen in the manner prescribed in the two preceding Sections, except that it shall be done in town meeting. In such town when a *venire* is served upon the Sclectmen, they shall cause a town meeting to be notified and warned for that purpose, in the manner ordered by the town or otherwise prescribed by law.

A. D. 1868.

Venires trans-

Additional ju-

Places inter-

May be drawn

Foreman.

A. D. 1869. XVII. The meeting for drawing jurors, whether the draft is made in town meeting or before the Selectmen and Town Clerk only, shall be held Meeting when not less than seven nor more than fifteen days before the day when the jurors are required to attend.

XVIII. The Constable shall, at least four days before the time when the sum-jurors are required to attend, summon each person who is drawn by reading to him the venire with the endorsement thereon of his having been drawn, or by leaving at his place of abode a written notification of his having been drawn, and of the time and place of the sitting of the Court at which he is to attend, and shall make return of the venire, with his doings thereon, to the Clerk before the opening or time of holding the Court from which it issued.

XIX. A list of jurors in cities shall be prepared and posted therein, by Provision for the Mayor and Aldermen, in like manner as required of Selectmen; and cities. when posted for ten days shall be submitted to the Mayor and Aldermen, who shall have power to revise and accept the same.

> XX. The Mayor and Aldermen and the Clerks of each city shall severally have and exercise all the powers and duties with regard to drawing, and all other matters relating to jurors therein, which are in this Act required to be performed by the Selectmen and Town Clerks of their respective towns; and all venires for jurors to be returned from cities shall be served on the Mayor and Aldermen.

XXI. On the day when the jurors are summoned to attend at any Court. Empanneling the Clerk shall prepare a list of their names arranged in alphabetical order. The first twelve on the list who are not excused, shall be sworn and empanneled as a jury for the trial of causes, and shall be called the first jury. The next twelve on the list shall then be sworn and empanneled in like manner, and shall be called the second jury.

XXII. Supernumerary jurors may be excused from time to time until Supernumerary wanted and may be put on either of the juries, as occasion requires, in the iurors. place of absentees. Nothing herein contained shall prevent the transferring of jurors from one jury to the other when the convenience of the Court or of the jurors require it.

> XXIII. Each jury after being thus empanneled shall retire and choose their foreman, or shall make such choice upon retiring with the first cause with which they are charged; and whenever the foreman is absent or excused from further service, a new foreman shall be chosen in like manner.

XXIV. Nothing contained in the preceding Sections shall apply to the Criminal cases, empanueling of juries in criminal cases; but the jurors shall be called, sworn and empanneled anew for the trial of each case, according to the established practice, and their foreman shall be appointed by the Court, or by the jury when they retire to consider their verdict.

XXV. When by reason of challenge or otherwise, a sufficient number of To complete a jurors duly drawn and summoned cannot be obtained for the trial of any cause, civil or criminal, the Court shall cause jurors to be returned from the bystanders or from the county at large, to complete the panel: Provided, That there are on the jury not less than seven of the jurors who were originally drawn and summoned as before provided.

XXVI. The jurors so returned from the bystanders shall be returned by How returned the Sheriff or his Deputy, or by a Coroner, or by any disinterested person appointed therefor by the Court, and shall be such as are qualified and liable to be drawn as jurors according to the provisions of law.

XXVII. The Court shall, on motion of either party in a suit, examine on oath any person who is called juror therein, to know whether he is related to either party, or has any interest in the cause, or has expressed or Inced on oath. formed any opinion, or is sensible of any bias or prejudice therein; and the party objecting to the juror may introduce any other competent evidence in support of the objection. If it appears to the Court that the juror is not indifferent in the cause, another shall be called and placed in his stead for the trial of that cause.

XXVIII. In indictments and penal actions for the recovery of a sum of money or other thing forfeited, it shall not be a cause of challenge to a juror lenge. that he is liable to pay taxes in any county, city or town which may be benefited by such recovery.

Jurors exam-

XXIX. If a party knows of any objection to a juror in season to propose it before the trial and omits to do so, he shall not afterwards be allowed to be before trial. make the same objection unless by leave of the Court.

XXX. No irregularity in any writ of venire facius, or in the drawing, summoning, returning or empanueling of jurors shall be sufficient to set aside a verdict, unless the party making the objection was injured by the irregularity, or unless the objection was made before the returning of the verdict.

Irregularities.

Objections to

XXXI. If either party in a case in which a verdict is returned, during the same term of the Court, before the trial, gives to any of the jurors who jurors. try the cause anything by way of treat or gratuity, the Court may, on the motion of the adverse party, set aside the verdict and award a new trial of the cause.

Gratuities to

XXXII. When a jury, after due and thorough deliberation upon any cause, return into Court without having agreed upon a verdict, the Court peat evidence. may state anew the evidence, or any part of it, and explain to them anew the law applicable to the case, and may send them out for further deliberation; but if they return a second time without having agreed upon a verdict, they shall not be sent out again without their own consent, unless they shall ask from the Court some further explanation of the law.

XXXIII. The jury in any case may, at the request of either party, be taken to view the place or premises in question, or any property, matter or premises. thing relating to the controversy between the parties, when it appears to the Court that such view is necessary to a just decision: Provided, The party making the motion advances a sum sufficient to pay the expenses of the jury and the officers who attend them in taking the view, which expenses shall be afterwards taxed like other legal costs, if the party who advanced them prevails in the suit.

XXXIV. If a person duly drawn and summoned to attend as a juror in any Court neglects to attend without sufficient excuse, he shall pay a fine tend. not exceeding twenty dollars, which shall be imposed by the Court to which the juror was summoned, and shall be paid into the County Treasury.

Neglect to at-

XXXV. When by neglect of any of the duties required in this Act to be performed by any of the officers or persons herein mentioned, the jurors to be returned from any place are not duly drawn and summoned to attend the Court, every person guilty of such neglect shall pay a fine not exceeding twenty dollars, to be imposed by the same Court to the use of the county in which the offence was committed.

XXXVI. If any City or Town Clerk, Selectman, Mayor or Alderman is

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A. D. 1868. guilty of fraud, either by practicing on the jury box previously to a draft, or in drawing a juror, or in returning into the box the name of any juror Fraud in form- which had been lawfully drawn out, and drawing or substituting another in ing juries. his stead, or in any other way in the drawing of jurors, he shall be punished by a fine not exceeding five hundred dollars.

> XXXVII. Nothing contained in this Act shall affect the power and duty of Coroners, Magistrates or Justices of the Peace to summon and empannel

jurors, when authorized by other provisions of law.

jurors.

XXXVIII. The Clerk of the Court of General Sessions for each county, Write for grand not less than fifteen days before the commencement of the first term of the Court in each year, shall issue writs of venire facias in each county for eighteen grand jurors to be returned to that Court, who shall be held to serve at each term thereof throughout the year, and until another grand jury is empanneled in their stead.

How drawn.

XXXIX. Grand jurors shall be drawn, summoned and returned in the same manuer as jurors for trials; and when drawn at the same time as jurors for trials, the persons whose names are first drawn, to the number required, shall be returned as grand jurors, and those afterwards drawn shall be jurors

XL. In case of deficiency of grand jurors in any Court, writs of venire Case of defi-facias may be issued to the Constables of such cities or towns as the Court ciency. may direct to return forthwith such further number of grand jurors as may be required.

XLI. No more than thirty one persons to serve as petit jurors shall be Number at one drawn and summoned to attend, at one and the same time, any Court, unless the Court shall otherwise order.

XLII. This Act shall take effect from and after the organization of the To go into townships under the Act entitled "An Act to define the jurisdiction of County Commissioners," except the Sections from twenty-one to thirty-four, both numbers inclusive, which shall take effect immediately.

> In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

No. 64. AN ACT TO REGULATE ARRESTS AND BAIL IN CIVIL ACTIONS.

 Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, No person shall be arrested in a civil action except as prescribed by this Act; but the same shall not be construed to apply to proceedings for contempts.

II. Arrests may be made, as hereinafter prescribed, in the following

may be made. Cases :

When arrests

1. In an action for the recovery of damages on a cause of action not arising out of contract, where the defendant is not a resident of the State, or is about to remove therefrom, or where the action is for an injury to person

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or character, or for injuring, or for wrongfully taking, detaining or convert-

ing property.

2. In an action for a fine or penalty, or on a promise to marry, or for money or property received and embezzled or fraudulently misapplied by a public officer, or by an attorney, solicitor or counsellor, or by an officer or agent of a corporation or banking association, in the course of his employment as such, or by any factor, agent, broker, or other person in a fiduciary capacity, or for any misconduct or neglect in office, or in a professional employ-

3. In an action to recover the possession of personal property unjustly detained, where the property or any part thereof has been concealed, removed or disposed of so that it cannot be found or taken by the Sheriff, and with the intent that it should not be so found or taken, or with the intent to deprive the plaintiff of the benefit thereof.

4. When the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought, or in concealing or disposing of the property for the taking, detention or conversion of which the action is brought, or when the action is brought to recover damages for

fraud or deceit ..

5. When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors. But no female shall be arrested in any civil action, except for wilful injury to person, character or property.

III. An order for the arrest of the defendant must be obtained from a Judge, Justice of the Peace, or Clerk of the Court in which, or before whom, order for arrest

the action is brought.

IV. The order for the arrest may be made where it shall appear to the Judge, Justice of the Peace, Magistrate or Clerk, by the affidavit of the plaintiff or of any other person that a sufficient cause of action exists, and that the case, from the facts stated, is one of those mentioned in Section 2 of this Act

V. Before making the order the Judge or Clerk shall require a written undertaking on the part of the plaintiff, with or without sureties, to the ef- Surety for conte fect that if the defendant recover judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the arrest, not exceeding the sum specified in the undertaking, which shall be at least one hundred dollars. If the undertaking be executed by the plaintiff without sureties, he shall annex thereto an affidavit that he is a resident and householder or freeholder within the State, and worth double the sum specified in the undertaking over all his debts and liabilities.

VI. The order may be made to accompany the summons or at any time afterwards before judgment. It shall require the Sheriff of the county where the defendant may be found forthwith to arrest him and hold him to bail in a specified sum, and to return the order at a time and place therein mentioned to the plaintiff or attorney, by whom it shall be subscribed or endorsed.

VII. But said order of arrest shall be of no avail and shall be vacated or set aside on motion, unless the same is served upon the defendant, as provided by law, before the docketing of any judgment in the action; and the defendant shall have twenty days after the service of the order of arrest in

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Sheriff.

Time to answe

A. D. 1868. which to answer the complaint or affidavit in the action, and to move to vacate the order of arrest or to reduce the amount of bail.

VIII. The affidavit and order of arrest shall be delivered to the Sheriff, to de-who, upon arresting the defendant, shall deliver to him a copy thereof.

Сору fendant. IX. The Sheriff shall execute the order by arresting the defendant and How executed keeping him in custody until discharged by law, and may call the power of

the county to his aid in the execution of the arrest.

X. The defendant, at any time before execution, shall be discharged May be dis- from the arrest, either upon giving bail or upon depositing the amount mencharged. tioned in the order of arrest, as provided in this Act.

> XI. The defendant may give bail by causing a written undertaking to be executed by two or more sufficient bail, stating their places of residence and occupations, to the effect that the defendant shall, at all times, render himself amenable to the process of the Court during the pendency of the action, and to such as may be issued to enforce the judgment therein; or if he be arrested for the cause mentioned in the third sub-division mentioned in Section 2 of this Act, an undertaking to the same effect as that provided by Section fourth in an Act entitled "An Act to regulate attachments.'

Boll may surrender.

XII. At any time before a failure to comply with the undertaking, the bail may surrender the defendant in their exoneration, or he may surrender himself to the Sheriff of the county where he was arrested, in the follow-

let. A certified copy of the undertaking of the bail shall be delivered to the Sheriff, who shall detain the defendant in his custody thereon, as upon an order of arrest, and shall, by a certificate in writing, acknowledge the surrender.

2d. Upon the production of a copy of the undertaking, and Sheriff's certificate, a Judge or Clerk of the Court may, upon a notice to the plaintiff of five days, with a copy of the certificate, order that the bail be exonerated, and on filing the order and the papers used on said application, they shall be exonerated accordingly But this Section shall not apply to an arrest for cause mentioned in sub-division three of Section 2 of this Act, so as to discharge the bail from an undertaking given to the effect provided by Section fourth of an Act entitled "An Act to regulate attachments."

XIII. For the purpose of surrendering the defendant, the bail at any Bail may arrest, time or place, before they are finally discharged, may themselves arrest him, or by a written authority, endorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

XIV. In case of a failure to comply with the undertaking, the bail may Ball responsible proceeded against in the manner heretofore provided by law, not inconsistent with this Act.

XV. The bail may be exonerated either by the death of the defendant, Exoneration of or his imprisonment in a State prison, or by his legal discharge from the obligation to render himself amenable to the process, or by his surrender to the Sheriff of the county where he was arrested, in execution thereof, within twenty days after the commencement of the action against the bail. or within such further time as may be granted by the Court

XVI. Within the time limited for that purpose the Sheriff shall deliver the order of arrest to the plaintiff or attorney by whom it is subscribed, with his return endorsed, and a certified copy of the undertaking of

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Justification.

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The plaintiff, within ten days thereafter, may serve upon the Sheriff a notice that he does not accept the bail, or he shall be deemed to

have accepted it, and the Sheriff shall be exonerated from liability.

XVII. On the receipt of such notice the Sheriff or defendant may, within ten days thereafter, give to the plaintiff or attorney by whom the order of arrest is subscribed, notice of the justification of the same or other bail, (specifying the places of residence and occupation of the latter,) before a Judge or Clerk of the Court, at a specified time and place; the time to be not less than five nor more than ten days thereafter. In case other bail be given, there shall be a new undertaking, in the form prescribed in Section 11.

XVIII. The qualifications of bail must be as follows:

1st. Each of them must be a resident and a householder or freeholder Qualifications within the State.

For justifica-

2d. They must each be worth the amount specified in the order of arrest, exclusive of property exempt from attachment or execution; but the Judge, Clerk, or a Justice of the Peace, on justification, may allow more than two bail to justify severally in amounts less than that expressed in the order, if the whole justification be equivalent to that of two sufficient bail.

XIX. For the purpose of justification, each of the bail shall attend before the Judge, Clerk or a Justice of the Peace at the time and place mentioned in the notice, and may be examined, on oath, on the part of the plaintiff, touching his sufficiency, in such manner as the Judge, Clerk or Justice of the Peace, in his discretion, may think proper. The examination shall be reduced to writing and subscribed by the bail, if required by the plaintiff.

XX. If the Judge, Clerk or Justice of the Peace find the bail sufficient, he shall annex the examination to the undertaking, endorse his allowance thereon, and cause them to be filed with the Clerk, and the Sheriff shall thereupon be exonerated from liability.

XXI. The defendant may, at the time of his arrest, instead of giving bail, deposit with the Sheriff the amount mentioned in the order. The Sheriff May deposit amount of bail. shall thereupon give the defendant a certificate of the deposit, and the de-

tendant shall be discharged out of custody.

XXII. The Sheriff shall immediately after deposit pay the same into Court, and shall take from the officer receiving the same two certificates of therefor, such payment, the one of which he shall deliver to the plaintiff and the other to the defendant. For any default in making such payment, the same proceedings may be had on the official bond of the Sheriff to collect the sum deposited as in other cases of delinquency, or be forthwith proceeded against by attachment for contempt as provided in an Act entitled "An Act to regulate the manner of keeping and disbursing funds by certain officers."

XXIII. If money be deposited as provided in the last two Sections, bail may be given and justified upon notice as prescribed in Section 17 of this Act, any time before judgment; and thereupon the Judge before whom the justification is had shall direct, in the order of allowance, that the money deposited be refunded by the Sheriff or Clerk to the defendant, and it shall be refunded accordingly.

XXIV. Where money shall have been so deposited, if it shall remain on deposit at the time of an order or judgment for the payment of money to the plaintiff, the Clerk shall, under the direction of the Court, apply the same in satisfaction thereof, and after satisfying the judgment shall refund the surplus, if any, to the defendant. If the judgment be in favor of the defend-

May deposit

ant the Clerk shall refund to him the whole sum deposited and remaining un-

applied.

Liability of bail be not given or justified, or a deposit be not made instead thereof, the Sheriff shall himself be liable as bail. But he may discharge himself from such hability by giving and justification of bail, as provided in Sections 17, 18, 19 and 20 of this Act, at any time before process against the person of the defendant to enforce an order or judgment in the action.

NXVI. If a judgment be recovered against the Sheriff, upon his liability against Sheriff.

Against She

lect the deficiency, as in other cases of delinquency.

Liablity of bail XXVII. The bail taken upon the arrest shall, unless they justify, or other bail be given or justified, be liable to the Sheriff, by action, for damages which he may sustain by reason of such omission.

XXVIII. A defendant arrested may, at any time before judgment, apply, on motion, to vacate the order of arrest, or to reduce the amount of

bail.

XXIX. If the motion be made upon sflidavits on the part of the de-Motion apon fendant, but not otherwise, the plaintiff may oppose the same by affidavits or other proofs, in addition to those on which the order of arrest was made.

Meaning of mean the party moving or complaining in an action or suit; and the word "defendant," as the adverse party.

In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

No. 65. AN ACT to define the jurisdiction and duties of County Com-

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, County Commissioners, elected in pursuance of Seo-Disbursements tion 19 of Article IV of the Constitution, shall have jurisdiction over roads, highways, ferries, bridges, and in all matters relating to taxes and disbursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns in their respective counties.

Oath of office. II. County Commissioners, before entering upon their duties, shall be sworn, and at their first meeting after their election shall choose a Chairman of their Board.

III. A majority of the Board of County Commissioners shall constitute a quorum for the transaction of business, and all questions which shall arise at their meetings shall be determined by a majority of the Board. The Board shall sit with open doors, and all persons may attend their meetings. In

Quorum.

case of the absence of the Chairman at any meeting the members present shall choose one of their number as temporary Chairman.

IV. Every Chairman shall have power to administer an oath to any person concerning any matter submitted to the Board or connected with their powers or duties.

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V. The County Commissioners of the several counties of this State shall meet annually in their respective counties for the dispatch of business; they inga may also hold special meetings at such times and places as they may find convenient, and shall have power to adjourn from time to time, as they may deem necessary.

VI. The annual meeting of the Boards of County Commissioners for each County shall be on the first Tuesday of November, and the Clerk of the inga Board shall give notice of the time of holding said annual meeting by inserting the same at least once in each week for four weeks previous to such meeting in any newspaper or papers published in the county; and if there be no paper published in the county, then he shall post said notice upon or near the door of the court house of the county; said notice shall require all presented persons having bills against the county to deposit the same with the said Ulerk on or before the first day of November, and in default thereof that such

bills will not be audited at said annual meeting.

VII. County Commissioners, when assembled for the performance of their duties, may punish disorderly conduct, causing interruption to the business tempts. of their meetings, or amounting to an open and direct contempt of their authority or persons, by fine not exceeding ten dollars, or by confinement in the custody of the heriff or a Deputy Sheriff, Coroner or a Constable, for a time not exceeding twelve hours.

VIII. Sheriffs, Deputy Sheriffs, Coroners and Constables shall serve and Processes to be execute all legal orders, warrants or processes to them directed by the executed. County Commissioners.

IX. The books, records and accounts of the Boards of County Commissioners shall be deposited with their (lerk, and shall be open, without re-cords open, ward, to the examination of all persons.

X. The Board of County Commissioners of each county in the State shall Powers of the have power at their annual meeting:

1. To examine, settle and allow all accounts chargeable against such county, and draw orders on the County Treasurer for the same.

2. To cause to be levied, collected and paid to the Treasurer of the county such sum of money as may be necessary to construct and repair bridges therein, and to prescribe upon what plan, and in what manner, the moneys so to be raised shall be expended.

3. To apportion the tax so to be raised among the several towns and wards Apportion taxes

of their county as shall seem to them to be equitable and just. 4. To cause to be levied, collected and paid all such sums of money as they shall deem necessary for rebuilding or repairing the court house or jail ings. of their county, or for building, rebuilding or repairing the Clerk's office. for the county, and to prescribe upon what plan, and in what manner,

Public build-

5. To cause to be raised by tax upon such county any sum of money not to exceed the sum of five thousand dollars in any one year, for the purpose mentioned in the first and second sub-divisions of Section 14 of this Act.

6. To determine by resolution when the county taxes shall be collected Time of collec-

and paid to the County Treasurer.

money so raised shall be expended.

A. D. 1868. Townships.

XI. The County Commissioners of the several counties in this State shall, immediately after the passage of this Act, or as soon thereafter as practicable, divide their respective counties into townships of not less than thirty-six nor more than one hundred square miles in extent, (except in the case of wild, marshy or uninhabited tracts, when extent may be increased within their discretion,) having reference in such division to the configuration of the country, number of inhabitants, course of trade, facilities for inter-communication, and the general convenience of the people thereof. For the purpose of running and establishing the lines of said townships, the County Commissioners may employ a surveyor and incur such other expense as may be necessary to erect permanent monuments to designate the respective boundary lines at every angle thereof, except where such lines are bounded by the ocean or some permanent stream of water. ments shall be of stone, brick or iron, and be at least four feet high from the surface of the ground, and the initial letter of the respective names of contiguous townships shall be plainly and legibly cut or marked thereon.

Name. Organization.

XII. Whenever the Board of County Commissioners shall erect a township as herein provided, they shall designate the name thereof, the time and place of holding the first meeting therein, and three electors of such township, whose duty it shall be to preside at such meeting, appoint a clerk, open and keep the polls, and exercise the same powers as Justices of the Peace, while presiding at such meeting; and in case any of the said electors shall refuse or neglect to serve, the electors of the said township present at such meeting shall have power to substitute some other elector of said town for each one so refusing or neglecting to serve. Notice of the time and place of holding such town meeting, signed by the chairman of the Board of County Commissioners, shall be posted in four of the most public places in such township, by the person so designated to preside at such meeting, at least fourteen days defore holding the same. XIII. The County Commissioners shall report their doings under Sections

eral Assembly.

Report to Gen-11 and 12 of this Act to the General Assembly for confirmation, so far as relates to the division of their counties into townships, the townships therein established, and the boundary lines thereof.

Purchase real

XIV. The Boards of County Commissioners shall have power, and they are hereby authorized:

1. At any meeting thereof lawfully assembled to purchase for the use of their respective counties any real estate necessary for the erection of buildings and for the support of the poor of such county.

Fix sites.

2. To fix upon and determine the site of any such buildings, and cause to be erected necessary buildings for poor houses, and prescribe the manner of erecting the same.

Borrow money

Sell or lease.

3. To borrow money for the use of such county, to be expended for the purchase of any real estate, or for the erection of any such buildings. and to provide for the payment thereof, with interest, by tax upon such county, within ten years from the date of such loan, in yearly instalments or otherwise.

4. To authorize the sale or leasing of any real estate belonging to such county, and to prescribe the mode in which any conveyance shall be made.

To make such orders concerning the corporate property of the county

as they may deem expedient.

6. To examine, approve or disapprove the official bonds of all county Approve bonds officers.

7. To require any county officer whose salary is paid by the county to make report under oath to them on any subject or matter connected with the duties of their offices; and the said officers are hereby required to make such report whenever called upon by resolution of such Board; and if any officer shall neglect or refuse to make such report he shall be deemed guilty of a misdemeanor and punishable by fine or imprisonment within the discretion of the Circuit Court.

A. D. 1868. Require reports

8. To appoint Special Commissioners to lay out public highways in those cases where they shall be satisfied that the road applied for is important, and the same is unreasonably neglected or refused by the town or towns in missioners. which the highway is required: Provided, That no such loan shall be created by the County Commissioners until they notify the General Assembly of the necessity thereof, and authority be granted by them to create said loan.

Special Com-

XV. Special meetings of the Board of County Commissioners of any county may be called by the Chairman of the Board on his own motion or ings.

Special meet-

the written request of the other members of the Board.

XVI. The County Commissioners shall have power to provide for the payment to the Special Commissioners appointed under the eighth sub-divi- of Special Comsion of Section fourteen of this Act for their time and expenses, at a rate missioners. not exceeding three dollars per day each, and five cents for each mile of necessary travel. The decisions made by said Special Commissioners may be Decisions may be reviewed. appealed from and reviewed in the same manner and with like authority as is allowed by law from the acts of the County Commissioners. The work so to be laid out by such Special Commissioners, or the same as settled on appeal, shall be recorded, opened and worked as public highways of the towns, cities or counties in which they are respectively situated, in the same manner as other highways of the town, city or county are now required by law to be recorded, opened and worked.

Compensation

XVII. Every resolution of any Board of County Commissioners passed in pursuance of the provisions of this Act shall be signed by the Chair-records. man and Clerk of the Board, and be recorded in the book of miscellaneous records of the county.

Miscellaneo u s

XVIII. Each Board of County Commissioners shall appoint some proper person to be their Clerk, whenever necessary, and may remove him at pleasure, whose general duties it shall be:

Clerk.

1. To record in a book to be provided for the purpose all proceedings by the Board.

2. To make regular entries of all the resolutions or decisions on all ques-

tions concerning the raising or payment of moneys. 3. To record the vote of each Commissioner on any question submitted

to the Board, if required by any member present; and, 4. To preserve and file all the accounts acted upon by the Board.

Said Clerk shall take the oath prescribed by the Constitution. receive a reasonable compensation for his services, to be fixed by the Board, not to exceed three dollars per day for the time actually and necessarily employed.

Oath.

XIX. The Board of County Commissioners of any county may adopt a seal, and when so adopted, the Clerk of such Board shall cause a description thereof, together with an impression therefrom, to be filed in the office of the Clerk of the Court of Common Pleas and General Sessions of said

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rates.

A. D. 1868. county, and in the office of the Secretary of State, and the same shall thereupon be the scal of the Board of County Commissioners for such county.

XX. Copies of all papers duly filed in the office of the Clerk of the Board Copies: of pa- of County Commissioners of any county, and transcripts from the books of record kept therein, certified by such Clerk, with the seal of office affixed, shall be evidence in all Courts and places in like manner as if the original

were produced.

allowed.

XXI. No account shall be audited by any Board of County Commissioners Anditing of ac- for any services or disoursements, unless such account shall be made out in connts. items and accompanied with an affidavit attached to, and to be filed with, such account, made by the person presenting or claiming the same, that the items of such account are correct, and that the disbursements and services charged therein have been in fact made or rendered, and stating that no part thereof has been paid or satisfied: Provided, Nothing in this Section shall be construed to prevent any Board from disallowing any account, in whole or in part, when so rendered and verified, nor from requiring any other or further evidence of the truth and propriety thereof, as such Board may think proper. No allowance or payment beyond legal claims shall ever be

XXII. All fees and accounts of Magistrates, Justices of the Peace and Fees of Magis- other officers for criminal proceedings, including cases of vagrancy, when not recovered from the defendant or party complaining, shall be paid by the county wherein the offence shall have been committed; and all accounts rendered for such proceedings shall state when such offence was committed. And the fines imposed and collected in such cases shall be credited and paid to the County Treasurer by the Magistrate, Justice of the Peace, or other officer imposing and collecting the same. And whenever any criminal warrant or process shall be issued by any Magistrate, Justice of the Peace, or other officer residing out of the county wherein the offence shall have been committed, it shall authorize the officer executing the same to carry the person charged with the offence before any Magistrate or Justice of the Peace resident and being in the county wherein such offence shall have been committed, to be proceeded against according to law; and such officers shall not be allowed any compensation for any further proceedings in any such case beyond issuing such warrant or process.

XXIII. No traveling fees shall be allowed for subposnaing a witness be-Subpoens fees, youd the limits of the county in which the subpœua was issued, or of an adjoining county, unless the Board auditing the account shall be satisfied by proof that such witness could not be subpænaed without additional travel; nor shall any travel fees for subpoenaing witnesses be allowed, except such as the Board auditing the account shall be satisfied were indispensably necessary.

XXIV. The tiscal year shall commence on the first day of November in each year; and it shall be the duty of all persons having any claim or demand against a county to have the same made out in items, with dates prefixed, and verified in the manner and form required by law, and to deposit the same in the office of the Clerk of the Board of County Commissioners for the county on or before the first day of November in each and every year, and the Board of County Commissioners in any county may, in their discretion, refuse to audit or allow any claim or demand unless made out, verified and deposited in the manner herein specified.

XXV. All accounts presented in any year to the Board of Commissioners

Fiscal year.

A. D. 1868.

Numbering of

of any county shall be numbered from number one upwards, in the order in which they are presented, and a memorandum of the time of presenting the same; of the names of the persons in whose favor they shall be made out; accounts. and by whom they shall be presented, shall be entered in the minutes of the Board to which they shall be presented; and no such accounts, after being so presented, shall be withdrawn from the custody of the Board, or its Clerk, for any purpose whatever, except to be used as evidence upon a judicial trial or proceedings, and in such case it shall, after being so used, be forthwith returned to such custody.

XXVI. It shall be the duty of the Clerks of the Boards of County Commissioners on or before the second Tuesday of November in each year to ments. make out a statement, showing:

1. The amount of compensation audited by the Board of County Commissioners to the members thereof, severally, within the year, and the items and nature of such compensation as audited.

2. The number of days the Board shall have been in session within such year, and the distance traveled by the members respectively, in attending to

the meetings of the Board.

3. Whether any accounts were audited or allowed without being verified according to law for any member of the Board of Commissioners, or any other person, and if any, how much, and for what; and such statement shall be certified by such Clerk, and be printed in a newspaper published or circulated in the county within two weeks after said statement shall be so made out; and it shall be the special duty of such Clerk to see that the same is so published; and for every intentional neglect so to do, such Clerk shall be deemed guilty of a misdemeanor, and punishable by fine or imprisonment, within the discretion of the Court.

XXVII. It shall be the duty of the Board of County Commissioners in cach county, annually, to publish in one or more newspapers printed or cir- accounts audited. culated in such county, the name of every individual who shall have had any account audited and allowed by said Board, and the amount of said claim as allowed, together with the amount claimed.

XXVIII. It shall be the duty of the Clerk to designate every account upon which any sum shall be audited and allowed by the Board, and the amount so audited and allowed, and the charges for which the same was allowed; and he shall also deliver to any person who may demand it a certified copy of any account on file in his office, on receiving from such person

ten cents for every folio of one hundred words contained in such copy. XXIX. Each member of the Board of County Commissioners shall be allowed compensation for his services in attending the meetings of the Board, of Commissionand for necessary time spent in discharging other duties imposed by law, if any, at the rate of three dollars per day, and five cents per mile for neces-

Compensation

sary travel.

XXX. No member of the Board of County Commissioners shall vote for any extra allowance to any person who is paid by salary, nor shall the Treasurer of said county knowingly pay to any such person any extra allow-Every offence against the provisions of this Section shall be a misdemeanor, punishable by a fine not less than the amount of such extra allowance, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

XXXI. If any County Commissioner shall refuse or neglect to perform

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the county.

Annual esti-Body politic. cerns of the county.

any of the duties required of him by law as a member of the Board of A. D. 1868. County Commissioners, he shall for every such offence forfeit the sum of two Refusal to per-hundred and fifty dollars. form duty. XXXII The public officers having by law the care and custody of town, Insure public village, city or county buildings, are hereby authorized to insure the same at the expense and for the benefit of the town, village, city or county owning XXXIII. County Commissioners shall annually, on or before the second Tuesday of November, prepare and make up the estimate for all county charges and debts for the fiscal year then ensuing, and of the rate of taxation necessary to raise money to meet the same; the estimates so made up and approved by them shall be recorded by their Clerk, a in book kept for that purpose, and a fair copy thereof, with a statement of the amount of borrowed money due from the county, and of the amount of taxes due and unpaid at the time of making said estimates, signed by the presiding Commissioner and attested by their clerk, shall, with the Treasurer's accounts, be Reports to sealed up and transmitted by the Clerk to the office of the Comptroller-Gen-Comptroller Gen- eral of the State, to be laid before the General Assembly for approval, if it shall think proper and advisable.

XXXIV. The County Commissioners shall apportion all county taxes ac-Apportionment cording to the then last State valuation, and shall, by their Clerk, certify to the Assessors of the cities and towns their respective portions: Provided, No tax shall be levied and collected by the County Commissioners until the same has been authorized by the General Assembly.

XXXV. Each county shall be a body politic and corporate for the following purposes: To sue and be sued, purchase and hold for the use of the county personal estate and lands lying within its own limits, and to make necessary contracts and do necessary acts in relation to the property and con-

XXXVI. Real and personal estate heretofore conveyed by any form of Property of conveyance to the inhabitants of a county or district, to a Committee or Commissioners or other persons, or existing in a county or district for the use and benefit of a county or district, shall be deemed to be the property of such county; and such conveyance shall have the same force and effect as if made to such counties by their respective corporate names. XXXVII. Members of the Board of County Commissioners shall hold

Term of omce, their office for the term of two years, and until their successors are elected and qualified: Provided, If any person elected a member of said Board shall remove from the county without intention to return, be or become disqualified, be removed from office, resign or die, the said office, upon proper evidence thereof, shall be declared vacant by the Governor of the State, who Vacancies. shall thereupon, by proclamation, call an election in said county to fill the

unexpired term of said office, giving at least twenty days' notice thereof in the public prints circulating in the county. XXXVIII. The first term of office of County Commissioners created by

Expiration of the Constitution ratified on the 14th, 15th and 16th days of April, Anno Domini eighteen hundred and sixty-eight, shall be held to expire on the third Monday of April, Anno Domini eighteen hundred and seventy; and succeeding terms on the same day in every second year thereafter.

XXXIX. There shall be a general election in each county, for County General elec-Commissioners, on the second Tuesday of April, Anno Domini eighteen hundred and seventy, and on the same day in every second year thereafter.

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XL. That all Acts and parts of Acts inconsistent with this Act, or supwlied by it, are hereby repealed; and all county or district offices heretofore existing, the functions and powers of which are herein conferred upon County Commissioners, are hereby abolished, and the officers holding the same shall immediately transfer all property, records, books and papers pertaining to their respective offices to the County Commissioners of their respective counties. Any outgoing officer whose office is abolished by this Section who shall refuse or neglect, for ten days after demand therefor by the County Commissioners, to deliver up the property, records, books or papers, as herein required, shall be liable to a penalty of fifty dollars.

In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT to fix the salary and regulate the pay of certain of-FICERS.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same. The Governor of the State shall receive an annual salary of three thousand five hundred dollars; the Secretary of State shall receive an annual salary of three thousand dollars, the same to include Clerk's salary, said Clerk to be appointed by him and removed at pleasure; the office of the Surveyor-General is abolished, and the duties heretofore devolved upon that office shall be performed by the Secretary of State; the fees or perquisites of the office of Secretary of State shall hereafter be paid into the Treasury of the State; the Lieutenant-Governor, while presiding over the Senate, shall receive a per diem of ten dollars, and the mileage of a member of the General Assembly; the Private Secretary to the Governor shall receive an annual salary of fifteen hundred dollars; the Adjutant and Inspector-General shall receive an annual salary of twenty-five hundred dollars; the Comptroller-General shall receive an annual salary of three thousand dollars, and the fees and perquisites of that office shall be paid into the Treasury of the State; the Treasurer of the State shall receive an annual salary of two thousand five hundred dollars, and his Chief Clerk, to be appointed with the approval of the Governor, shall receive an annual salary of eighteen hundred dollars; the Chief Justice of the Supreme Court shall receive an annual salary of four thousand dollars; and the Associate Justices of the Supreme Court shall receive, each, an annual salary of three thousand five hundred dollars; the Circuit Judges shall each receive an annual salary of three thousand five hundred dollars; the Circuit Solicitors shall each receive an annual salary of one thousand dollars,, and the fees prescribed by law; County Auditors shall each receive an annual salary of one thousand dollars, except the Auditor for Charleston County, who shall receive an annual salary of one thousand five hundred dollars; Coroners shall receive the fees heretofore provided by law; the County Treasurers shall

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No. 66.

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A. D. 1868. each receive the commissions heretofore provided by law for Tax Collectors : Provided. The same shall not exceed two thousand five hundred dollars per annum; Engrossing Clerks shall receive the same per diem as members of the General Assembly. The salaries herein provided for, except those paid by fees or commissions, shall be paid quarterly out of the Treasury of the State.

II. No executive, judicial, or other officer, elected or appointed to any of-Must be duly fice in the State, shall be entitled to or receive any pay or emoluments of qualified. office until he shall have been duly commissioned and qualified.

III. The Governor shall not commission any person elected or appointed Outh of office, to any office, unless such person shall furnish to him satisfactory and conclusive evidence that he is duly qualified to hold and enjoy the said office under the Constitution of this State and of the United States.

> In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MOSES, JR., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO REGULATE THE PRACTICE OF THE CIRCUIT COURTS IN CER-No. 67. TAIN CASES.

I. Be it enacted by the Senate and House of Representatives of the State . of South Carolina, now met and sitting in General Assembly, and by the Circuit Courts, authority of the same, All the Courts of the State organized under the Act entitled "An Act to organize the Circuit Courts" shall have power to grant new trials in cases where there has been a trial by jury for reasons for which New trials. new trials have usually been granted in the Courts of law of the United States; and they shall have power to administer all necessary oaths or affirmations, and punish by fine or imprisonment, at the discretion of said Courts, all contempts of authority in any cause or hearing before the same, and to make and establish all necessary rules for the orderly conducting of business in said Courts: Provided, Such rules are not repugnant to the laws of the State or the rules prescribed by the Supreme Court.

II. The Circuit Courts, as Courts of Equity, shall be deemed always open of for the purpose of filing bills, petitions, answers, pleas and other pleadings, for issuing and returning mesne and final process and commissions, and for Bauity. making and directing all interlocutory motions, orders, rules and other proceedings whatever, preparatory to the hearing of all causes pending therein, upon their merits, and it shall be competent for any Judge of the said Courts, upon reasonable notice to the parties in the Clerk's office or at Chambers, and in vacation as well as in term, to make, direct and award all such process, commissions and interlocutory orders, rules and other proceedings, whenever the same are not grantable of course, according to the rules and practice of the Court.

III. Issues of fact, in civil cases, in any Circuit Court, may be tried and Issues of fact determined by the Court without the intervention of a jury, whenever the parties or their attorneys of record file their consent, in writing, with the Clerk of the Court, waiving a jury.

IV. Upon the trial of a question of fact by the Court, its decision shall be given in writing, and shall contain a statement of the facts found and the conclusions of law, separately; and upon a trial of an issue of law the decision shall be made in the same manner, stating the conclusions of law. Such decision shall be filed with the Clerk within sixty days after the Court at which the trial took place. Judgment upon the decision shall be entered accordingly as of the term, and the judgment and finding may be reviewed on writ of error or appeal, when the same is duly taken, after the filing of the decision.

Decisions.

A. D. 1868.

V. All issues of law or fact in civil cases may be referred to arbitrators or referees upon the written consent of the parties; and when the parties do not cousent, the Court may, upon the application of either party, or of its own motion, except where the investigation will require the decision of difficult questions of law, direct a reference in the following cases: 1st. Where the trial of an issue of fact shall require the examination of a long account on either side; in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein. 2d. Where the taking of an account shall be necessary for the information of the Court, before judgment, or for carrying a judgment or order into effect

VI. The trial by referees or arbitrators shall be conducted in the same manner, and on similar notice as a trial by the Court. They shall have the same power to grant adjournments, and to allow amendments to any plead-ees. ings as the Court upon such trial, upon the same terms and with like effect. They shall have the same power to preserve order and punish all violations thereof upon such trial, and to compel the attendance of witnesses before them by attachment, and to punish them as for a contempt for nonattendance or refusal to be sworn or testify as is possessed by the Court. They must state the facts found and the conclusions of law, separately. The report of such referees or arbitrators being returned, shall be allowed and stand as the decision of the Court granting the rule, unless sufficient cause be shown to the contrary. When the reference is to report the facts, the report shall have the effect of a special verdict found by a jury.

Trial by refer-

VII. In all cases of reference, the parties as to whom issues are formed in the action (except when the defendant is an infant or an absentee) may sentees. agree in writing upon the persons, not exceeding three, and a reference shall be ordered to him or them and to no other persons. And if such parties do not agree, the Court shall appoint one or more referees, not more than three, who shall be free from exception; and no person shall be appointed referee to whom all parties in the action object; and no Justice or Judge of any Court shall sit as a referee in any action pending in the Court of which he is Judge. Unless the Court shall otherwise order, or the parties otherwise stipulate, the referee or referees shall make and deliver a report within sixty days from the time the action shall be finally submitted; and in default thereof said referee or referees shall not be entitled to receive any fees, and the action shall proceed as if no reference had been ordered. The report of the referee or referees, arbitrator or arbitrators, shall be delivered to the Clerk of the Court out of which the order of reference issued.

VIII. The juries to serve in the Circuit Courts shall be drawn in the same manner, and serve with the same qualifications, as heretofore provided by law under Military Orders and the Provisional Government of the State,

Reports.

use#bd-google Public Domain, Google-digitized A D. 1868, until the Act entitled "An Act to regulate the manner of drawing juries" shall take effect: Provided, No more than thirty-one petit jurors or nineteen grand jurors shall be summoned to attend the Circuit Court at any one time, except by order of the Court.

> In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, JR., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

AN ACT PROVIDING FOR THE NEXT GENERAL ELECTION AND THE MANNER No. 68. OF CONDUCTING THE SAME.

> I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The next general election in this State shall be held on the first Tuesday after the first Monday of November

II. For the purposes of carrying on such election, it shall be the duty

of Election.

Managers.

Time of.

Commissioners of the Governor, and he is hereby authorized and empowered, to appoint in and for each county three Commissioners of Elections, whose duty it shall be, and they are hereby authorized and empowered, to appoint three Managers of Elections for each election precinct of the county for which they shall respectively be appointed. The said Commissioners of Elections and the said Managers of Elections shall take and subscribe, before any officer authorized to administer oaths, the following oath of office prescribed by Section 30 of Article II of the Constitution, and the same shall be immediately filed, in each instance, in the office of the Clerk of the county in which said Commissioners and Managers shall be appointed; and if there be no such Clerk duly qualified by law, then in the office of the Secretary of State.

Place-

agers.

III. The said election shall be held in each county at such and as many places as may be designated by the Commissioners aforesaid, and shall be conducted in each precinct under the superintendence of the said Managers, who shall conform in such election to existing laws and regulations regarding elections, except as hereinafter otherwise provided

IV. It shall be the duty of such Managers, commencing twenty days Duties of Man-prior to such election, and giving ten days' public notice of the time and place of such revision, to revise, for a period of three days, the registration lists upon which the election commencing the second day of June, one thousand eight hundred and sixty-eight, and ending the third day of June of the same year, was conducted, by the addition to such lists of the names of all persons entitled to vote under the Constitution who have not already been registered, and by striking from such lists the names of such persons as shall not by law be entitled to vote. purposes of such revision, such Managers shall meet at the places designated by the Commissioners, as provided in the next preceding Section.

V. The Managers are hereby authorized to appoint a clerk to assist

them in whatever duties may be required of them, who shall take the oath of office hereinbefore mentioned before the Chairman of the Board

of Managers.

VI. The Commissioners aforesaid and the Managers aforesaid, at their first meetings, respectively, shall proceed to organize themselves as a Board by appointing one of their number Chairman of the Board; and such Chairman, in each instance, shall be empowered to administer the necessary oaths.

VII. The polls shall be opened at such voting places as shall be designated at six o'clock in the forenoon and closed at six o'clock in the afternoon of the day of election, and shall be kept open during these polis.

hours without intermission or adjournment.

VIII. Representatives in the House of Representatives of the Congress of the United States shall be chosen at such election in the several

Congressional Districts by the qualified electors therein.

IX. The State Constable and other peace officers of each county are hereby required to be present during the whole time that the polls are kept open, and until the election is completed; and they shall prevent all interference with the Managers, and see that there is no interruption of good order. If there should be more than one polling place in any county, the State Constable of such county is hereby empowered and directed to make such assignment of his deputies, and other peace officers, to such other polling places as may, in his judgment, best subserve the purposes of quiet and order.

X. All bar-rooms, saloons, and other places for the sale of liquors by retail, shall be closed during the progress of such election, and until six o'clock in the morning of the day thereafter; and during the time aforesaid, the sale of all intoxicating liquors are prohibited. Any person duly convicted, before a competent Court, of a violation of this Section, shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment,

in the discretion of the Court.

XI. If any company or corporation who have obtained, or may hereafter obtain, a charter from the Legislature of this State for the benefit Penalty of of such company or corporation, shall discharge, or threaten to discharge, workmen. from employment in such business any operative or employee, before or after any election, for or on account of his political opinion, or for voting or attempting to vote as he or they may desire, said charter shall be deemed and taken to be forfeited, and shall have no legal or binding force at any time thereafter, but shall be utterly null and void; and the person discharged may have an action of trespass to recover damages for his losses therein sustained against said company or corporation; and should any agent or clerk in the employment of such company or corporation discharge, or threaten to discharge, any employee on account of his political opinion, or for voting or attempting to vote as he or they may desire, if said agent or clerk is not immediately dismissed when said company or corporation becomes possessed of such information, said company or corporation shall be held responsible for the same, and be liable to the penalties hereinbefore prescribed.

XII. The voting shall be by ballot, which shall contain written or printed, or partly written and partly printed, the names of the persons A. D. 1868.

Congress.

State Constable



A. D. 1868.

voted for, and the offices to which such persons are intended to be chosen, and shall be so folded as to conceal the contents; and such bailot shall be deposited in a box to be constructed, kept and disposed of as hereinafter provided.

Tickets.

XIII. There shall be one general ticket, on which shall be the names of the persons voted for as Representatives in Congress, and State, circuit and county officers; and on another general ticket the names of the persons voted for as Electors of President and Vice-President, as hereinafter provided.

Boxes

XIV. The Commissioners of Election shall provide two boxes for each election precinct. An opening shall be made in the lid of each box, not larger than shall be sufficient for a single closed ballot to be inserted therein at one time, through which each ballot received, proper to be placed in such box, shall be inserted. Each box shall be provided with a sufficient lock, and shall be locked before the opening of the poll, and the keys thereof delivered to one of the Managers, to be appointed by the Board, and shall not be opened during the election. Such boxes shall be labelled as follows: 1. Electors. 2. Congress, Circuit and County Officers.

Poll list.

XV. Each clerk of the poll shall keep a poll list, which shall contain one column headed "Names of Voters," and so many additional columns as there are boxes kept at the election. The heading of each additional column shall correspond with the name of one of the boxes so kept.

Names.

XVI. The name of each elector voting shall be entered by the clerk in the column of his poll list headed "Names of Voters;" and when there shall be more than one box kept, opposite such name shall be written the figure 1 in each remaining column of such poll list, corresponding in its heading with the name of the box in which a ballot of the elector shall have been deposited.

XVII. At the close of the election, the Managers shall proceed pub-Counting votes licly to canvass the votes, and such canvass, when commenced, shall be continued without adjournment or interruption until the same be com-

pleted.

XVIII. Each box being opened, the ballots contained therein shall be taken out and counted unopened, except so far as to ascertain that each ballot is single; and if two or more ballots shall be found so folded together as to present the appearance of a single ballot, they shall be destroyed, if the whole number of ballots exceed the whole number of votes, and not otherwise.

destroyed.

XIX. If the ballots shall be found to exceed in number the whole Surplus ballots number of votes on the correspondent columns of the poll lists, they shall be replaced in the box, and one of the Managers shall, without seeing the same, publicly draw out and destroy so many ballots unopened as shall be equal to such excess.

> XX. The Board shall then proceed to canvass and estimate the votes. XXI. If after having opened or canvassed the ballots it should be found that the whole number of them exceed the whole number of votes entered on the poll list, the Managers shall return all the ballots into the box, and shall thoroughly mingle the same; and one of the Managers, to be designated by the Board, shall publicly draw out of such box, without seeing the ballots contained therein, so many of such ballots as shall be equal to the excess, which shall forthwith be destroyed.

XXII. The canvass shall be completed by ascertaining how many ballots of the same kind corresponding in respect to the names of persons thereon, and the offices for which they are designated, have been received; and the result being found, the Managers shall securely attach to a statement of such canvass one ballot of each kind found to have been given for the officers to be chosen at such election, any or either of them, except those given for Electors of President and Vice-President; and they shall state in words, at full length, immediately opposite such ballot, and written partly on such ballot and partly on the paper to which it shall be attached, the whole number of all the ballots that were received, which correspond with the one so attached, so that one of each kind of the ballots received at such election for the officers then to be chosen shall be attached to such paper, with a statement of such can-They shall also attach to such paper the original ballots, if any, rejected by them as being defective, which were given at such election.

Statement of

A. D. 1868.

XXIII. When Electors of President and Vice-President shall be chosen at said election, the Managers shall make a separate canvass and Electura. statement of the votes given for Electors, in the manner prescribed in the last preceding Section, by ascertaining how many ballots of the same kind, corresponding in respect to the names thereon, have been received; and the result being found, the Managers shall securely attach to paper one original ballot of each kind found to have been given for Electors, and shall state, in words at full length, opposite such ballot, and partly written thereon and partly on the paper to which it shall be attached, the whole number of ballots for Electors that were found to have been received corresponding with the one so attached. They shall also attach to such paper all original ballots for Electors rejected by them as being defective.

XXIV. The statement to be made by the Managers shall contain a caption, stating the day on which, and the precinct and county at which, the election was held; it shall also contain a statement showing the statement whole number of ballots taken for each person, designating the office for which they are given, which statement shall be written in words at length, and at the end thereof a certificate that such statement is correct in all respects, which certificate shall be signed by the Managers.

XXV. Duplicate statements, as provided in the last preceding Section, shall be made by the Managers and filed in the office of the Clerk of Duplicate the county; and if there be no such Clerk duly qualified according to statements. law, then in the office of the Secretary of State.

XXVI. The original statements, duly certified, shall be delivered by the Managers, or by one of them, to be deputed for that purpose, on the Tuesday next following the election, to the Commissioners of Election at the county seat, who shall there assemble at that time.

OF THE COMMISSIONERS OF ELECTIONS AS CANVASSERS AND THEIR PROCEEDINGS.

XXVII. The Commissioners of Elections shall meet at the county seat, as provided in the last preceding Section, and shall proceed to or-commissioners. ganize, and shall form the County Board of Canvassers.

XXVIII. They shall meet in some convenient place at the county seat, on the Tuesday next following the election, before one o'clock in the afternoon of that day. They may appoint some competent person as Secre-

Organization.

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The Chairman shall then proceed to administer the Constitutional oath to each member of the Board as Canvassers, and shall administer the Constitutional oath of office to the Secretary, and the Secretary shall administer to the Chairman the same oath that he shall have administered to the other members of the Board.

Ftatements.

XXIX. The original statements of the canvass in each precinct shall then be produced, and from them the Board shall proceed to estimate the votes of the county, and shall make such statements thereof as the nature of the election shall require, within three days of the time of their first meeting as a Board of County Canvassers.

Dupl'cates.

XXX. Duplicate statements shall be made and filed in the office of the Clerk of the county; and if there be no such Clerk duly qualified according to law, then in the office of the Secretary of State.

Separate statements.

XXXI. They shall make separate statements of the whole number of votes given in such county for Representatives in Congress; and separate statements of the votes given for Electors of President and Vice-President; and separate statements of all other votes given for other Such statements shall contain the names of the persons for whom such votes were given, and the number of votes given for each, which shall be written out in words at full length.

Triplicates

XXXII. There shall be prepared by the Commissioners three separate lists of each statement, besides the list to be filed in the office of the County Clerk or Secretary of State, and each list shall be certified to as correct by the signatures of the Commissioners subscribed to such cer-

XXXIII. Within three days after the final adjournment of the Board of County Canvassers, the Chairman of the Board shall deposit in the nearest post office, directed to the Governor, Secretary of State and Comptroller-General, (the full postage paid,) each, one of the certified copies of the statement and certificate of votes, prepared as provided in the last preceding Section.

OF THE FORMATION AND PROCEEDINGS OF THE BOARD OF STATE CANVASSERS.

XXXIV. The Secretary of State shall appoint a meeting of the State State Canvase Canvassers, to be held at his office, or some convenient place, on or before the fifteenth day of December next after such general election, for the purpose of canvassing the votes of all officers voted for at such election, except Electors of President and Vice-President..

XXXV. The Secretary of State, Comptroller-General, Attorney-General and Treasurer shall constitute the State Canvassers, three of whom shall be a sufficient number to form a Board.

XXXVI. If a majority of those officers shall be unable, or shall fail to attend, one of the Justices of the Supreme Court and the Mayor of the city of Columbia, being notified by the Secretary of State, shall attend without delay, and, with the officer attending, shall form the Board.

Statements.

XXXVII. The Board when thus formed shall, upon the certified copies of the statements made by the Boards of County Canvassers, proceed to make a statement of the whole number of votes given at such election for the various offices, and each of them voted for, distinguishing the several counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper names.

XXXVIII. Upon such statements, they shall then proceed to determine and declare what persons have been, by the greatest number of

votes, duly elected to such offices, or either of them. XXXIX. They shall make and subscribe, on the proper statement, a certificate of such determination, and shall deliver the same to the Secretary of State.

XL. The Board shall have the power to adjourn, from day to day, for

a term not exceeding five days.

XLI. The Secretary of State shall record in his office, in a book to be kept by bim for that purpose, each certified statement and determination which shall be delivered to him by the Board of State Canvassers, and every dissent or protest that shall have been delivered to him by a Can-Vasser.

XLII. He shall, without delay, transmit a copy, under the seal of his office, of such certified determination to each person thereby declared to be elected, and a like copy to the Governor.

XLIII. He shall cause a copy of such certified statements and determinations to be printed in one or more of the public newspapers in each

county, if any shall be published therein.

XLIV. He shall prepare a general certificate, under the seal of the State, and attested by him as Secretary thereof, addressed to the House cate. of Representatives of the United States in that Congress for which any person shall have been chosen, of the due election of the persons so chosen at such election as Representatives of this State in Congress, and shall transmit the same to the said House of Representatives at their first meeting.

XLV. The Secretary of State shall enter in a book, to be kept in his office, the names of the respective county officers elected in this State, officers recorded specifying the counties for which they were severally elected, and their place of residence, the office for which they were respectively elected,

and their term of office.

OF THE ELECTION OF ELECTORS OF PRESIDENT AND VICE-PRESIDENT.

XLVI. At the next general election provided for in this Act, there shall be elected, by general ticket, as many Electors of President and Presidential Vice-President as this State shall be entitled to appoint; and each Elector in this State shall have a right to vote for the whole number of such Electors; and the several persons, to the number required to be chosen, having the highest number of votes, shall be declared and deemed duly appointed Electors.

XLVII. The Commissioners of Elections of each county shall make four certified copies of the statement of votes given for Electors in their county, one of which copies shall be filed in the office of the Clerk of the county, if there be such Clerk duly qualified by law; another of such copies they shall forthwith transmit to the Governor, another to the Secretary of State, and deliver the other as hereinafter directed.

XLVIII. The Commissioners of Election of each county shall appoint a messenger, and shall deliver to such messenger the remaining certified copy of the statement of the votes given in their county for Electors, securely enclosed and under seal, and such messenger shall proceed forthwith to deliver the same to the Secretary of State.

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Adjournments.

Statements re-

Published.

General certifi-

Certified copies

Measengers.

A. D. 1868.

XLIX. The Board of State Canvassers shall meet at the office of the Secretary of state on the Wednesday next after the third Monday of No-State Canvas- vember next after such election, or sooner, if all the certified copies of the statements of the County Canvassers shall have been received from all the counties, to canvass the votes given for the Electors of President and Vice-President; and in case all the certified statements shall not have been received on that day, the Board may adjourn, from day to day, until the same shall have been received, not exceeding five days; and if at the expiration of four days certified copies of the statements of the County Canvassers shall not have been received from any county, the Board shall proceed to canvass upon such of the said statements as shall have been

Statement.

L. The Board of State Canvassers shall proceed in making a statement of all the votes, and determining and certifying the persons elected, in the manner prescribed by law in relation to the election of other

LI. The Secretary of State shall, without delay, cause a copy, under Certificates by the seal of his office, of the certified determination of the Board of State Canvassers to be delivered to each of the persons therein declared to be elected; and for that purpose he may employ such and so many messengers as he shall deem necessary.

Published.

LII. The determination and certificate of the Board of State Canvassers in relation of the choice of Electors shall be published in the same manner as herein provided in relation to the certificates of the election of other officers.

Penalty messengers.

LIII. If any of the messengers shall be guilty of destroying the ceron tificates entrusted to their care, or of wilfully doing any act that shall defeat the due delivery of them as directed by this Act, he shall be punished by imprisonment in the penitentiary at hard labor, for a term not less than two nor exceeding four years; and if any person shall be found guilty of taking away from any of the said messengers, either by force or in any other manner, any such certificates entrusted to his care, or of wilfully doing any act that shall defeat the due delivery thereof, as directed by this Act, he shall be punished by imprisonment in the penitentiary at hard labor, for not less than two nor exceeding four years.

Punishment.

LIV. If any officer or messenger, on whom any duty is enjoined in this Act, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding one year.

LV. The messengers employed or appointed under this Act shall re-Compensation ceive for their compensation twelve cents per mile for traveling, to be of messengers. audited by the Comptroller-General upon the certificate of the Secretary of State.

Commission-

LVI. The Commissioners of Election shall receive for their compensa-Compensation tion three dollars per day for their services while actually employed; and the Managers shall receive two dollars per day while actually employed; and the clerks of the Commissioners and the clerks of the Managers, respectively, shall receive two dollars per day while actually employed.

Bolicitore.

LVII. Solicitors for the several Circuits in the State shall be elected at the next general election provided for in this Act; also, suitable per-

sons to fill any vacancy in any elective office in any county, of which at least fifteen days' previous notice shall be given, by the proclamation of the Governor.

A. D. 1868.

In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate. FRANKLIN J. MUSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO AUTHORIZE THE GOVERNOR TO LEAVE THE STATE UNDER No. 70. CERTAIN CIRCUMSTANCES.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor of the State is hereby authorized, Governor authorized to leave whenever in his judgment the public welfare may require it, to leave the the State. State for such a period of time as in his judgment may be necessary.

II. All Acts or parts of Acts inconsistent with this Act are hereby re-

pealed.

In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

AN ACT TO ORGANIZE TOWNSHIPS, AND TO DEFINE THEIR POWERS AND No. 71. PRIVILEGES.

I. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The inhabitants of every township are hereby declared to be a body politic and corporate, and by their corporate name may sue and be sued, prosecute and defend any proper action or suit at law, and may appoint all necessary agents and attorneys in that behalf.

Body corporate

II. Said townships may hold real estate for the use of the inhabitants, and may convey the same either by a vote of the inhabitants or by deed of Hold real es their Committee or agent; may hold personal estate for the public use of tate. the inhabitants, and alienate and dispose of the same by vote or otherwise; may hold real and personal estate in trust for the support of schools and for the promotion of education within the limits of the town; may make contracts necessary for the exercise of their corporate powers; and may make orders for the disposal or use of their corporate property, as they may judge necessary and expedient for the interest of the inhabitants.

III. Said towns may, at legal meetings, grant and vote such sums of Vote moneys. money as they judge necessary for the following purposes: 1. For the sup-

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Boundaries.

Votera.

port of town schools. 2. Laying out, discontinuing, making, altering and repairing highways, and for labor and materials to be used thereon. 3. For burial grounds. 4. For all necessary charges and liabilities arising therein

IV. The lines between the towns in this State shall be perambulated, and the marks and bounds renewed once in every seven years forever, by the Selectmen of such towns, or by such person as they shall appoint for such

purpose.

V. Every male citizen of the age of twenty one years and upwards, resident within the township, shall be allowed to vote, under the same limitations and restrictions as provided in Section 2 of Article VIII of the Constitution for a voter in the county, at all meetings held for the transaction of town business.

VI. The annual meeting of each town shall be held on the second Tues-Annual meet-day of April; and other meetings at such times as the Selectmen may order. Meetings may be adjourned from time to time, and to any place within the town.

VII. Every town meeting shall be held in pursuance of a warrant under Town meetings the hands of the Selectmen, or a majority thereof, directed to the Constable. or some other person appointed by the Selectmen for that purpose, who shall forthwith notify such meeting in the manner prescribed by law.

VIII. The warrant shall express the time and place of the meeting, and Time and place the subjects to be there acted upon; the Selectmen shall insert therein all subjects which may, in voting, be requested of them by any ten or more voters of the town, and nothing acted upon shall have a legal operation unless the subject matter thereof is contained in the warrant..

IX. If the Selectmen unreasonably refuse to call a meeting, any Justice Meetings to be of the Peace of the town, upon the application of ten or more loyal voters of the town, may call such meeting, by warrant under his hand, directed to the Constable of the town, if any, otherwise to any of the persons applying therefor, directing them to summon the inhabitants qualified to vote in town affairs, at the time and place, and for the purposes expressed in the warrant.

> X. Constables or other persons designated to summon the inhabitants to assemble in town meeting, annual or special, shall serve the same by posting said summons in at least three of the most public places in their respective towns at least fourteen days, exclusive of the day of posting such summons, before the time appointed for such meeting.

> XI. If, by reason of death, resignation, disqualification or removal from the town, a majority of the Selectmen thereof originally chosen vacate their office, those who remain in office may call a town meeting.

> XII. At every town meeting, except the first called by the County Commissioners, and except for the election of national, State, Circuit and county officers, a Moderator shall first be chosen.

> XIII. During the election of Moderator, the Town Clerk, if present, shall preside; if he is absent or there is no Town Clerk, the Selectmen present shall choose one of their number to preside. And the Town Clerk and Selectmen, respectively, shall, in such cases, have the powers and perform the duties of a Moderator.

XIV. Moderators shall preside in the meeting; may in open meeting administer the oaths of office to any town officer chosen thereat; shall regulate the business and proceedings of the meeting; decide all questions of order, subject to an appeal to the meeting, and make public declaration of the re-

Constables.

Vacancies.

Moderator.

meetings.

sult of all votes. When a vote so declared by him is immediately upon such declaration questioned by seven or more of the voters present, he shall make the vote certain by polling the votes or dividing the meeting, for which purpose he may appoint tellers.

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XV. No person shall speak in the meeting without leave of the Modera- Maintain order. tor, nor while another person is speaking by his permission; and all persons shall at his request be silent.

XVI. If a person behaves in a disorderly manner, and after notice from the Moderator persists therein, the Moderator may order him to withdraw from the meeting, and on his refusal may order the Constable, or any other person or persons, to take him from the meeting and confine him in some convenient place until the meeting is adjourned. The person so refusing to withdraw shall, for every such offence, forfeit a sum not exceeding twenty dollars.

Penalty.

XVII. A Moderator or other presiding officer who, at a town meeting, before the poll is closed and without the consent of the voter, reads, exam-pening ballot. ines, or permits to be examined, the names written on such voter's ballot, with a view to ascertain the candidate voted for by him, shall forfeit the sum of fifty dollars.

XVIII. At the annual meeting, every town shall choose from the inhabit-

Town officers.

ants thereof the following town officers, who shall serve during the year, and until others are chosen and qualified in their stead: 1. A Town Clerk, who, if present, shall be forthwith sworn, either by the Moderator or a Jus-2. Three Selectmen. 3. One or more surveyors of tice of the Peace. 4. One Constable. All the town officers designated herein shall highways. be sworn. XIX. The election of Town Clerks, Selectmen, Constables and the Mod-

Ballots.

erator of the meetings held for the choice of town officers shall be by written ballots; and the election of all other town officers in such mode as the meeting determines, except in cases otherwise provided by law.

XX. Every person chosen Constable shall, if present, forthwith declare his acceptance or refusal of the office; if he does not accept, the town shall proceed to a new election until some one accepts the office and takes the oath.

Constables

XXI. If a town, at the annual meeting, fails to elect a full Board of Selectmen, or if any of the persons chosen are disqualified, refuse to act, or omit to be qualified according to law, the Selectmen or Selectman chosen and qualified may sign warrants for town meetings until a full Board is elected.

A full Board.

XXII. The Selectmen of each town may at any time appoint policemen, with all or any of the powers of Constables, except the power of serving and executing civil process, who shall hold their office during the pleasure of the Selectmen by whom they are appointed.

XXIII. After the election or appointment of town officers, who are required to take an oath of office, the Town Clerk shall forthwith make out a list containing the names of all such persons not sworn by the Moderator, and the designation of the offices to which they are chosen, and deliver the same, with his warrant, to a Constable, requiring him, within three days, to summon each of such persons to appear and take the oath of office before the Town Clerk within seven days after such notice; and the Constable shall, within seven days, make return to the Town Clerk.

XXIV. If a person so chosen and summoned, who is not exempt by law

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from holding the office to which he is elected, shall not, within seven days, take the oath of office before the Town Clerk, or before a Justice of the Penalty Peace, and file with the Town Clerk a certificate thereof, under the hand of such Justice, he shall, unless the office to which he is chosen is that of Constable, or some other for which a different penalty is provided, forfeit five dollars.

Vacating office.

 ${f XXV}.$ A person removing from the town in which he holds a town office thereby vacates such office.

 ${f XXVI}$. When a vacancy occurs in a town office by reason of the nonacceptance, death, removal, insanity or other disability of a person chosen thereto, or by reason of failure to elect, the town may fill such vacancy by a new choice at any legal meeting.

 ${f XXVII}$. No person shall be obliged to serve in the same town office two years successively; and no person in commission for any office of this State or of the United States, or who is a minister of the Gospel, or a member of the Senate or House of Representatives, or who has been a Constable of a town within seven years next preceding, shall be obliged to accept the office of Constable.

Record votes.

Exempts.

XXVIII. Town Clerks shall record all votes passed at the meeting at which he is elected, and at all the other meetings held during his continuance in office.

XXIX. He shall administer the oaths of office to all town officers who Administer appear before him for that purpose, and shall make a record thereof, and of the oaths of office taken before Justices of the Peace, of which certificates are filed.

XXX. When at a town meeting there is a vacancy in the office of Town Clerk pro tem. Clerk, or he is not present, the Selectmen shall call upon the qualified voters present to elect a Clerk pro tempore in like manner as Town Clerks are The Selectmen shall sort and count the votes and declare the election of such Clerk, who shall be sworn to discharge the duties of such office at such meeting, and be subject to like penalties for not discharging them as Town Clerks for neglect of the like duties.

XXXI. When other duties than those mentioned in the preceding Sec-Appointment tion are required to be performed by the Town Clerk, and by reason of death, of Clerk. removal, or other cause, there is a vacancy in such office, or such Clerk is prevented from performing such duties, the Selectmen may, in writing under their hands, appoint a Clerk for the performance thereof, who shall be sworn, and immediately after entering upon the duties of his office make a record of such election or appointment.

XXXII. Every Selectman who enters upon the performance of his duties before taking the oath of office shall forfeit for each offence a sum not ex-Penalty. ceeding one hundred dollars.

XXXIII. Selectmen shall be overseers of the poor in towns where other

Oversee r s of persons are not specially chosen for that office. the poor.

XXXIV. The Selectmen of towns shall, at least ten days before the an-Lists of voters. nual town elections, and at least ten days before any general election, make correct alphabetical lists of all persons qualified to vote at such elections; and shall, at least ten days before such elections, cause such lists to be posted up in two or more public places in their respective towns.

> XXXV. The Selectmen shall be in session at some convenient place for a reasonable time within forty-eight hours next preceding all meetings for the

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election of the officers provided for in this Act, and to be elected at any general election, for the purpose of receiving evidence of the qualifications of persons claiming a right to vote in such elections and of correcting the lists of voters. Such session shall be holden for one hour before the opening of the meeting on the day of election; and notice of the time and place of holding sessions shall be given by the Selectmen on the lists posted up as aforesaid.

A. D. 1868. Seesions.

XXXVI. In every place where the number of qualified voters exceeds one thousand, a like session of the Selectmen shall be holden on the day immediately preceding the meeting, and for as much longer a time previous to said day as they judge necessary for the purpose aforesaid.

XXXVII. The Selectmen shall enter on such lists the name of any person known to them to be quatified to vote; and shall erase therefrom the name

of any person known to them not to be qualified to vote.

XXXVIII. The Selectmen, before entering upon the lists the name of a naturalized citizen, shall require him to produce for their inspection his citizens, papers of naturalization, and be satisfied that he has been legally naturalized; but they need not require the production of such papers after they have once examined and passed upon them.

XXXIX. Whoever gives a false name or a false answer to the Selectmen when in session for the purposes aforesaid, shall forfeit the sum of twenty dollars for each offence.

XL. A town officer who neglects or refuses to perform any duty required of him under the provisions of this Act shall, for every such offence, forfeit town officers. the sum of two hundred dollars.

XLI. The Selectmen shall have the general supervision of the concerns of the town, and shall cause all duties required by law of towns, and not vision. committed to any particular office, to be duly performed and executed.

General super-

XLII. The Selectmen shall, on or before the first day of January in each year, obtain from the County Auditor of their respective counties a certified lection. copy of the list of persons and taxable property in their respective towns as determined by law for the assessment of State and county taxes; and shall, in pursuance of the vote of the town at its last annual meeting, make out and deliver to the County Treasurer, on or before the fifteenth day of January in each year, a tax bill for the collection of town taxes.

XLIII. The Selectmen shall audit and in their discretion allow the claim of any person, against the town, for money paid for services performed for the town, according to law, and may draw orders on the County Treasurer for sums so allowed.

Audit claime.

XLIV. The Selectmen shall keep a record of all accounts by them allowed, and all orders drawn on the treasury, and shall present to the annual town meeting a general statement thereof, and of the property, finances counts

Record of ac-

and pecuniary condition of the town. XLV. The Selectmen shall make out and present to the annual town meeting estimates of the amount of money necessary to be raised to pay the expenses and liabilities of the town for the year ensuing, and of the rate of

Estimates.

taxation necessary to be imposed to raise the same.

XLVI. For the purpose of keeping in repair highways and bridges, the Selectmen of each town shall annually, previous to the fifteenth day of Jan-High uary, assess a tax of eighteen cents on every hundred dollars of the lists of such town, to be paid in money or labor, at the option of the tax payer, and

Highways and

A. D. 1868.

laid out in repairing highways and bridges; and shall annually, on or before the said fifteenth day of January, make out a tax bill for each surveyor, containing the amount of tax to be laid out by him in his district, with the amount of each person's tax annexed to his name, accompanied with a warrant, signed by some Justice of the Peace of the town, authorizing such surveyor to collect such tax; and the Selectmen shall deliver the several tax bills to the respective surveyors, and take their receipts for the same.

Working on roads.

XLVII. Each person who shall furnish work on the highways in payment of his highway tax assessed by the Selectmen shall be allowed, for a good hand, at the rate of ten cents for each hour; and the several towns at the annual meetings, and in case of their neglect the Selectmen, may establish the price to be allowed for teams, carriages and tools to be employed in making repairs; and in case of the failure of both the town and Selectmen to establish such prices, it shall be the duty of the highway surveyor of the district to make such allowances for the use of teams, carriages and tools as shall be equitable and just.

Highway districts.

XLVIII. The Selectmen shall divide their respective towns into a sufficient number of highway districts to be convenient for repairing highways, and may, from time to time, alter the same; and it shall be the duty of each surveyor of highways to superintend the expenditure of the highway tax, and to take charge of and keep in repair at all times the highways in his district; and he shall be responsible to the town for any damages which may be sustained by the town through fault or neglect of the discharge of his

Road tax.

XLIX. For the purpose of keeping the highways and bridges in repair, the several towns in this State, at their annual meeting, or at any other legally warned meeting for that purpose, may raise by vote a tax of such a per cent. on the list of such town as such meeting may think necessary, in addition to the tax assessed by the Selectmen, to be paid in labor and expended in the several highway districts: Provided, That if, in the judgment of the Selectmen of the town, any of the highway districts of such town shall not require the whole amount of the tax accruing from the list of the highway district to be expended within its limits, it shall be appropriated in any part of such district where the Selectmen shall direct.

payers.

dents.

L. The surveyors of the several districts, after receiving their several tax Notice to tax bills and warrants, shall proceed to give notice to the several persons liable to pay taxes in their districts of the amount of their taxes, and of the time and place in which, and teams, carriages and tools with which, they are required to pay their taxes in labor; but no person shall be liable to furnish any team, carriage or tool of which he is not the owner, except hoes, shovels or spades.

LI. Such notice may be given to all persons resident in the town, either To non-resi-personally or by written notice left at their usual residence, and to nonresidents by a written notice left with, or at the residence of, their tenants, agents or other persons having the care of their property; all of which notices shall be at least three days, and in case of persons residing out of the town, at least ten days, before the time appointed for them to commence their work; and if such non-residents shall have no tenant or agent in the town, notice may be posted up in some public or conspicuous place in the district; and the surveyors shall make and keep a minute of the time and manner in which the notice shall be given.

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LII. Any person, after he has commenced working in payment of his highway tax, shall be subject to the direction of the surveyor, as to the times when, and the places where, his tax shall be paid and laid out in labor. A. D. 1868.

LIII. At least three-fourths of the highway tax in any town, payable in labor, shall be collected and laid out between the fifteenth day of January ing. and the first day of May, and the remainder between the first day of September and the first day of November in each year, except as hereinafter

Time of collect-

provided.

LIV. On any extraordinary occasion, when any bridge or highway shall be destroyed or impaired so as to require immediate repairs, or shall be ob-occasions. structed so as to require immediate labor to remove the obstruction, it shall be the duty of the surveyor forthwith to cause the highway or bridge to be repaired or the obstruction removed; and he may for that purpose call upon and notify any inhabitants of the district to afford him the necessary aid, or may hire other laborers, or employ other means to open or repair the highways and bridges; and in such case the notice shall be deemed sufficient to any person owing taxes payable in the district, in order to make him liable for neglect to pay his tax in money, if such notice shall be given six hours previous to the time when he is required to appear and labor. If any person shall, in such case, perform labor more than sufficient to pay the taxes due from him, or if a person not indebted for taxes shall perform labor, the amount of such labor, or the balance, may be credited to such person towards his highway tax the succeeding year.

Extraordinary

LV. If in such case any surveyor shall, for the space of twelve hours after application made to him for that purpose, neglect to call upon the in-veyor. habitants of his district, or use other proper measures to repair or open the highway or bridge which may be out of repair or obstructed, he shall forfeit and pay to the Selectmen of the town, to be expended in repairing highways in such district, the sum of ten dollars, with costs, to be collected in the name of the town, unless such surveyor shall show sufficient reason for

Neglect of sur-

LVI. If in such case any inhabitant of any district, whose name shall be on the tax bill of such district, whether any tax shall be due from him or not, shall for the space of six hours after being called on, or notified, by the surveyor for that purpose, without sufficient reason, neglect to turn out and assist in repairing or opening such highway or bridge as he shall be required, he shall forfeit and pay to the Sclectmen of the town the sum of

Neglect of per-

three dollars, to be collected and expended as provided in the preceding Section.

LVII. If any person against whom a surveyor shall have a tax payable Liable in money in labor shall neglect, after being notified, as provided in this Act, to work out his tax, shall be liable to pay his tax in money; and the surveyor shall proceed to collect the same, and shall have all the power which the County Treasurer has by law to collect State taxes; and shall proceed in the same manner in the collection, and shall have the same fees.

LVIII. It shall be the duty of each surveyor to lay out, in such manner as he may think beneficial, in making and repairing highways in his dis-moneys. trict, all moneys collected by him in his tax bill, or received in any other way for that purpose.

LIX. Each surveyor shall keep fair and regular accounts of all labor performed and all moneys received and expended in his district, and of the

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A. D. 1868. Keeping ac-

labor that may have been performed by any persons over and above their taxes, and make return of his accounts to the Selectmen annually in the month of December. And it shall be the duty of such surveyor to pay over to the Selectmen any moneys which may remain in his hands unexpended; and any moneys which may be so received from the surveyor shall be paid over by the Selectmen to the succeeding surveyor, to be expended in the same district; and when any persons shall have overpaid their taxes, in labor or otherwise, the balance shall be credited to such persons on their taxes for the succeeding year.

LX. If any surveyor shall have failed to collect the taxes contained in Failure to col- his tax bill, as required by law, or if he shall fail to pay over any moneys which he may have collected and not expended, the Selectmen may proceed against him in the same manner, as provided by law, in the case of delinquent County Treasurers or collectors of taxes.

Costs.

LXI. If any person receive or suffer bodily injury or damage in his propramage for in-erty through a defect or want of repair or of sufficient railing in or upon a highway, causeway or bridge, he may recover in an action of tort, of the county, town, village or city by law obliged to repair the same, the amount of damage sustained thereby, if such county, town, village or city had reasonable notice of the defect, want of repair or of sufficient railing, or if the same had existed for the space of twenty-four hours previous to occurrence of the injury or damage; but no such damage shall be recovered by a person whose carriage and load thereon exceeds the weight of six tons.

LXII. If before the entry of an action provided for in the preceding Section the defendant tenders to the plaintiff the amount which he would be entitled to recover, together with all legal costs, and the plaintiff does not accept the same, and does not recover upon the trial more than the sum so tendered, the defendant shall recover his costs.

LXIII. If a town neglect to repair any of the ways or bridges which it Neglect of is by law obliged to keep in repair, or neglect to make the same safe and town. convenient, such town shall be liable to indictment and fine as the Court in its discretion may order; and the fine imposed in such case shall be certified to the County Commissioners by the Clerk of the Court, who shall assess the same upon the list of such town, and the same shall be collected in the same manner as provided by law for State or county taxes; and the same, when collected, shall be laid out under the direction of the County Commissioners in the repair of highways and bridges in the County.

Compensation of Selectmen.

LXIV. The Selectmen shall each receive for services performed under this Act one dollar and fifty cents per day; Town Clerks shall receive for attendance on any town meeting one dollar and fifty cents per day, and for making up records and recording all such matters and things as by law he is required to record the same fees as are now allowed to a Register of Mesne Conveyance; Highway Surveyors shall receive fifteen cents per hour for time necessarily employed in discharging the duties required by this Act.

LXV. In the construction of this or any other statute, the following rules Rules of con-shall be observed, unless such construction shall be inconsistent with the struction. manifest intent of the Legislature or repugnant to the context of the same, that is to say:

1st. The word "town" may be construed to include the word "town-

2d. The word "highway" may include "bridges," and shall be equiva-

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use#pd-google http://www.hathitrust.org/access lent to the words "county way," "county road," "State road" and "common road."

A. D. 1868.

3d. The word "oath" shall include "affirmations," in cases where by law an affirmation may be substituted for an oath, and in like cases the word "aworn" may include the word "affirm."

4th. The words "preceding" and "following," when used by way of reference to any Section of statutes, shall mean the Section next preceding or next following, unless some other Section is expressly designated in such reference

5th. Words purporting to give a joint authority to three or more public officers, or other persons, shall be construed as giving such authority to a majority of such officers or persons.

6th. The word "sworn," when applied to public officers, shall be con-

strued as referring to the oath prescribed by the Constitution.

LXVI. This Act shall not be construed to interfere with the chartered rights of any city or village heretofore existing in this State; but all chartered cities and villages, except the city of Charleston, shall be included in and form a part of the townships established under Sections 11 and 12 of an Act entitled "An Act to define the jurisdiction and duties of County Commissioners."

LXVII. That so much of the first and tenth Sections of the Act entitled "An Act to define the jurisdiction and duties of County Commissioners" as relates to roads, highways and bridges shall be construed as giving authority to County Commissioners to exercise all the powers herein given to towns or town officers over the same, when such towns or town officers cannot or unreasonably neglect or refuse to exercise such powers.

LXVIII. This Act shall take effect as to each township on and after completion of the duties assigned to County Commissioners, under Sections 11 offect. and 12 of an Act entitled "An Act to define the jurisdiction and duties of County Commissioners."

LXIX. All Acts and parts of Acts inconsistent with this Act, or supplied by it, are hereby repealed; and all offices, by whatever name known, the functions and powers of which are conferred upon officers or persons named in this Act, shall, upon the same going into effect as herein provided, be abolished.

In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, JR., Speaker House of Representatives. Approved: ROBERT K. Scott, Governor.

Construction.

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JOINT RESOLUTIONS.

JOINT RESOLUTION RATIFYING THE FOURTEENTH AMENDMENT TO THE . Constitution of the United States.

A. D 1868. No. 1

Whereas both Houses of the Thirty-ninth Congress of the United States, at its first session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the amendment. United States, in words following, to-wit:

Constitutional

JOINT RESOLUTION PROPOSING AN AMENDMENT OF THE CONSTITUTION OF THE United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses concurring,) That the following Article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said Legislatures, shall be valid as a part of the Constitution, viz.:

ARTICLE XIV.

I. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Citizenship.

II. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of per-ofrepresentation. sons in each State, excepting Indians not taxed; but when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the execu tive and judicial officers of a State, or the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty one years of age and citizens of the United States, or in any way abridged, except sentation. for participation in the rebellion or other crimes, the basis of representation shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of such citizens twenty-one years of age in such State.

III. No person shall be a Senator or Representative in Congress, or Elector of President or Vice-President, or hold any office, civil or mili-

1

bilities.

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A. D. 1868. tary, under the United States, or under any State, who, having previously

taken an oath as a member of Congress, or as an officer of the United Political Disa-States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United Removal of po-States, shall have engaged in insurrection or rebellion against the same,

litical disabilior given aid or comfort to the enemies thereof; but Congress may, by a vote of two-thirds of each House, remove such disability.

IV. The validity of the public debt of the United States, authorized by Validity of the law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be ques-

Debts of the tioned. But neither the United States nor any State shall assume or rebellion or for pay any debt or obligation incurred in aid of insurrection or rebellion alaves invadid. against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

V. The Congress shall have power to enforce by appropriate legisla-

Power of Con- tion the provisions of this Article.

Therefore, resolved, That the said proposed amendment to the Constitution be, and the same is hereby, ratified by the General Assembly of Ratification. the State of South Carolina.

Resolved, That certified copies of the foregoing preamble and resolufor-tions be forwarded by the Governor to the President of the United Copies warded. States, to the presiding officer of the United States Senate, and the Speaker of the United States House of Representatives.

> In the Senate House, the ninth day of July, in the year of our Lord one thousand eight hundred and sixty-eight.

DAVID T. CORBIN, President of the Senate pro tempore. FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

No. 2. JOINT RESOLUTION FOR FITTING UP AND FURNISHING A RESIDENCE FOR THE GOVERNOR OF THE STATE.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Appropriation, authority of the same, That the sum of twenty-five hundred dollars be, and the same is hereby, appropriated for the fitting up and furnishing of the house on Arsenal Hill as a residence for the Governor of the State, to be expended under the direction of the Governor.

> In the Senate House, the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

A JOINT RESOLUTION PROVIDING FOR DRAWING FROM TREASURER OF State, the sum of seventy thousand dollars, to pay the per diem and MILEAGE OF MEMBERS OF THE GENERAL ASSEMBLY, AND PAY SUBORDINATE OFFICERS.

A. D. 1868. No. 3.

Resolved, That the officers named for that purpose in an Act passed at the present session of the Legislature, approved August 20th, 1868, entitled "An Act to make appropriation for the payment of the expenses of the present session of the Legislature, and to meet certain deficiencies in the appropriation for the fiscal year, commencing on the first of October, one thousand eight hundred and sixty-seven, made by General Orders No. 139, dated at Charleston, December 3, 1867," draw pay certificates or orders in favor of the officers, members, and employees of this General Assembly, to the 31st of August, inclusive, and that the amount of seventy thousand dollars to be drawn from the Treasurer in payment on account of per diem, mileage and services; and that the same be drawn at the Treasury as provided for by the aforesaid Act, said pay certificates and orders to be made out according to the "pro rata" scale prepared by the Committee of Ways and Means of the House of Representatives, and the Committee of Finance of the Senate, and hereunto annexed.

Pay certificates

In the Senate House, the second day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives.

Approved: Robert K. Scott, Governor.

JOINT RESOLUTION AUTHORIZING THE ISSUING OF A NEW WARRANT BY THE COMPTROLLER-GENERAL OF SOUTH CAROLINA TO W. W. WOOD-WARD, LATE SHERIFF OF BARNWELL COUNTY, SOUTH CAROLINA.

No. 4.

Whereas, on the twelfth day of May, one thousand eight hundred and sixty-eight, S. L. Leapheart, Comptroller General of the State of South Carolina, issued to W. W. Woodward, Sheriff of Barnwell County, South Carolina, a warrant directed to the Treasurer of said State for the payment of the sum of two hundred and fifty-five dollars and twenty cents (\$255.20) payable to the said W. W. Woodward, Sheriff as aforesaid, or order, the said sum being the amount of the account of said Sheriff for dieting prisoners in the month of April, one thousand eight hundred and sixty eight; and whereas the said warrant has been lost or destroyed, the same being still unpaid:

Therefore, be it resolved, by the Senate of the State of South Carolina, the House of Representatives concurring, That a new warrant be issued by the Comptroller-General of South Carolina to the said W. W. Woodward, Sheriff as aforesaid, for the amount aforesaid, and payable as aforesaid, on condition that the said W. W. Woodward execute to the Comptroller-General aforesaid a bond in twice the amount of said warrant, with good and

JOINT RESOLUTIONS.

A. D. 1868.

sufficient suretics, to be approved by said Comptroller-General, to indemnify said Comptroller-General against all loss by reason of the issuing of said new warrant.

In the Senate House, the eleventh day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

A JOINT RESOLUTION TO PROVIDE FOR THE PUBLICATION OF THE No. 5. ACTS OF THE PRESENT SESSION OF THE GENERAL ASSEMBLY.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Attorney-Gen-authority of the same, That the Attorney-General and Secretary of State, eral and Secre-be, and they are hereby, authorized to provide for the publication in such newspapers of the State, as may be by them deemed necessary, of the Acts and Resolutions of the present session of the General Assembly; and they are further authorized to cause the same to be published in the usual pamphlet form, for general distribution throughout the State; that the Treasurer is hereby authorized to pay all accounts duly audited by said Secretary of State and Attorney-General, out of any funds appropriated for the payment of the expenses of the General Assembly.

> In the Senate House, the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

A JOINT RESOLUTION TO AUTHORIZE THE APPOINTMENT OF A COM-No. 6. MISSIONER TO TAKE CHARGE OF THE PROPERTY KNOWN AS THE STATE Works in the Town of Greenville, in this State.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Commission ap. authority of the same, That the Governor be, and is hereby, authorized to appoint a Commissioner, for and in behalf of the State, to take charge of the State Works at Greenville, in this State, and all notes and papers connected therewith.

pointed.

In the Senate House, the twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

JOINT RESOLUTION INDEMNIFTING JOHN G. ITGEN FROM ALL FINES AND PENALTIES.

A. D. 1868. No. 7.

Whereas John G. Itgen, of the city of Charleston, did, during the year Anno Domini one thousand eight hundred and sixty-seven, erect a wooden building on the north side of Tradd street, on made land, near the water, in the city of Charleston; and whereas the erection of said building was in violation of the provisions of an Act entitled "An Act for the rebuilding of the city of Charleston," passed June first, Anno Domini one thousand eight hundred and thirty-eight, as amended by an Act entitled "An Act to amend the laws in relation to the erection of wooden buildings in the city of Charleston," passed December twenty-first, Anno Domini one thousand eight hundred and fifty-six; and whereas the said building was erected by the permission of the City Council of Charleston, and under a misapprehension of the proper construction of the aforesaid Acts; therefore,

Resolved by the Senate, the House of Representatives concurring, That the premises upon which the said wooden building has been erected by the from penalty. said John G. Itgen be, and the same are hereby, exempted from the effects of the aforesaid Acts, and the said John G. Itgen is hereby indemnified

against all fines and penalties for the violation of the same.

In the Senate House, the twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

JOINT RESOLUTION TO INQUIRE INTO THE LIABILITIES OF THE BANK OF THE STATE.

I. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That a Committee of three, to consist of two members of the House of Representatives and one member of the Senate, be ap-pointed. pointed to inquire into the assets and liabilities of the Bank of the State of South Carolina, and report at the next regular session of the General Assembly.

Committee ap-

No. 8.

II. That said Committee be instructed to inquire into and report for what Dutter of Comdebts of said Bank the State is liable.

III. Also, to report whether the debts of said Bank, or any part thereof, were created to aid the rebellion, or exist in consequence of the rebellion, or are in any way tainted with the rebellion, so that the payment thereof by the

State is prohibited by the Constitution. IV. That said Committee have power to examine the books and papers of said Bank, and to summon witnesses and examine them, under oath, relative to all matters touching the operations and conduct of the affairs of the said Bank.

In the Senate House, the twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: Robert K. Scott, Governor.

A. D. 1888. No. 9.

JOINT RESOLUTION TO CARRY OUT THE CONTRACT MADE BETWEEN THE LATE CONSTITUTIONAL CONVENTION AND DENNY & PERRY FOR PRINTING THE PROCEEDINGS OF SAID CONVENTION.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That in order to carry out the contract made between Appropriation the late Constitutional Convention and Denny & Perry for printing the proceedings of said Convention, sixteen hundred dollars, or so much thereof as may be necessary, be, and is hereby, appropriated, out of any money not otherwise appropriated, for the purpose of finishing the said work.

Treasurer.

Resolved, That the Governor and Treasurer of the State are hereby Governor and authorized and directed to see that the details of said contract are complied with.

Distribution.

Resolved, That the contract shall be so altered as to require that the pamphlets, when completed, shall be delivered to the Secretary of State. and that said officer is hereby directed to furnish, immediately upon the completion of the pamphlets, one copy each to the members of the late Constitutional Convention and to each of the members of the present General Assembly.

In the Senate House, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, Jr., Speaker House of Representatives. Approved: ROBERT K. SCOTT, Governor.

ACTS OF THE GENERAL ASSEMBLY

OF THE

STATE OF SOUTH CAROLINA.

Passed at the Regular Session, which was begun and held at the city of Columbia, on the fourth Tuesday in November, A. D. 1868, and was adjourned, without day, on the twenty-fourth day of March, A. D. 1869.

D. T. Corbin and Chas. W. Mont-Robert K. Scott, Governor. GOMERY, Presidents of the Senate. Franklin J. Moses, Jr., Speaker of the House of Representatives.

AN ACT ACCEPTING THE DONATION OF LANDS TO THE STATE OF SOUTH CAROLINA FOR THE ENDOWMENT OF AGRICULTURAL COLLEGES.

A. D. 1868.

No. 81.

Acceptance

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The State of South Carolina, by this Act, accepts all the provisions of an Act of the Congress of the United of Act of States of America, approved July 2, 1862, and of subsequent Acts, en-Congress. titled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," and consents to the conditions specified in said Act, especially all those set forth in the fifth Section thereof, and numbered first, second, third, fourth, fifth and sixth.

SEC. 2. The Governor of this State is hereby authorized and directed to notify the proper authorities of the United States of the passage of authorized to this Act by filing with them an authenticated copy thereof, and to take authorities of such other steps as may be necessary to obtain the land scrip to which U. States. the State of South Carolina is entitled under the provisions of the Act of Congress referred to in the foregoing Section; and such scrip, when scrip. obtained, shall be held by the Governor for the use of the State until it is

disposed of as hereinafter provided.

SEC. 3. The Governor, Secretary and Attorney-General of State, shall be, and they are hereby, authorized and empowered to receive, sell, and and dispose the Attorney-General shall assign, at such times and upon such terms as they may deem best for the interests of South Carolina, or as the General Assembly may hereafter by law direct, the whole or any part of the scrip disposed of. or land warrants issued, or to be issued, to this State by virtue of the Act of Congress referred to in the first Section of this Act.

Sec. 4. The proceeds of the sale or sales aforesaid shall be invested either in bonds of the United States, or in six per cent. bearing bonds of be invested.

Governor notify proper

Held for use of the State.

Who to sell

A. D. 1868.

this State; the principal of which bonds shall be forever held sacred for the purposes directed in the Acts of Congress aforesaid, and the interest shall be paid over semi-annually in each year, that is to say, on the first

of January and the first of July, as directed by law.

Agent may perform du-

Sec. 5. The Governor, Secretary and Attorney-General of State, may jointly perform and discharge any of the acts, trusts or duties authorized, directed or conferred herein, by any agent by them selected and appointed.

Costs and expenses.

Sec. 6. The costs and expenses incurred in carrying into effect the provisions of this Act shall be paid out of the Treasury of the State. All Acts and parts of Acts inconsistent with this Act or supplied by it are hereby repealed.

Approved December 10, 1868.

AN ACT TO PROVIDE ASSISTANCE FOR THE TRANSIENT SICK POOR No. 82. IN THE VARIOUS CITIES AND TOWNS OF THIS STATE.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That fifteen thousand dollars, or tion. so much of that sum as may be necessary, be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, to assist the authorities of the various Towns and Cities in the State in caring for the transient sick poor of such Cities and Towns.

To be paid only on order of.

SEC. 2. No portion of this appropriation shall be paid out of the Treasthe ury, except upon the order of the Mayor or Intendant of such Cities and Towns, approved by the Governor of the State.

Approved December 11, 1868.

AN ACT to make appropriation for the payment of the per No. 83. DIEM AND MILEAGE OF THE MEMBERS OF THE GENERAL ASSEM-BLY, AND THE SALARIES OF THE SUBORDINATE OFFICERS, AND OTHER EXPENSES INCIDENTAL THERETO.

Appropriation.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That for the payment of the per diem and mileage of the members of the General Assembly, and the salaries of subordinate officers, and other expenses incidental thereto, the sum of one hundred and forty thousand dollars, if so much be necessary, be, and the same is hereby, appropriated out of any funds in the Treasury not otherwise appropriated.

cates.

SEC. 2. That the Clerks of the Senate and House of Representatives Pay certifi- be, and they are hereby, authorized and directed to furnish to each member of their respective bodies a pay certificate for the amount of his mileage and per diem, to include such dates as the General Assembly shall, by concurrent resolution, direct.

Sec. 3. That such certificates shall conform to the provisions of Sec-

tion 23, Article II, of the Constitution of the State, and shall be certified by the President of the Senate, and attested by the Clerk of the Senate, for all members of that body, and by the Speaker of the House of Representatives, and the Clerk of the same, for all members of that body.

A. D. 1868. Certified and attested. Officers and

employees.

Sec. 4. That the subordinate officers and employees of this General Assembly shall, in like manner, be furnished with certificates of pay in such amounts as shall be fixed by that branch of the General Assembly to which such officers and employees shall, respectively, belong: Provided, however, That the pay certificates for services common to the two Houses shall be signed by the President of the Senate, and countersigned by the Speaker of the House of Representatives.

SEC. 5. That the Treasurer of this State is hereby authorized and directed to pay said certificates out of any funds in the Treasury not other- Treasurer. wise disposed of, and to hold the certificates as his vouchers therefor.

SEC. 6. And if such disbursements shall be made, in whole or in part, in the Bills Receivable of this State, it shall be at the current rates of rates. exchange.

Approved December 21, 1868.

AN ACT TO FACILITATE THE DRAWING OF JURORS IN THIS STATE.

No. 84.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That if in any Counties of the State the grand and petit jurors have not been drawn at the regular terms drawn. of the Courts of General Sessions and Common Pleas for this State, the Circuit Judges are hereby authorized to order the Clerk and Sheriff, at any time not less than seven days preceding the next sitting of said Court, to draw from the jury box grand and petit jurors for the ensuing term of said Court; and the jurors so drawn shall be summoned to attend the same by the Sheriff, as is now provided by law.

How to be

Sec. 2. This Act shall continue in force only until the Act entitled "An Act to regulate the manner of drawing juries," passed September 26th, 1868, shall take effect.

Approved December 21, 1868.

AN ACT TO AUTHORIZE R. S. AND M. R. BENNETT, OF BEAUFORT No. 85. COUNTY, TO COLLECT WHARFAGE.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That R. S. and M. R. Bennett, or their assigns, be, and they are hereby, authorized to collect the usual rate of wharfage upon to collect all goods, merchandise or commodity that may be landed at and upon wharfage. their wharf, now in course of construction, and leading from the rear of the lot corner of "A" and "Sixth" streets, in the town of Beaufort, South Carolina.

Authorized

Approved December 21, 1868.

A. D. 1868. AN ACT TO RENEW THE CHARTER OF THE CAMDEN INDEPENDENT FIRE ENGINE COMPANY.

No. 86.

charter.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Renewal of and by the authority of the same, That the charter of the Camden Independent Fire Engine Company be, and the same is hereby, revived, renewed and extended for the term of fourteen years from the ratification hereof.

Number of Sec. 2. That the said company is authorized and empowered to incompany. crease the number of its members from forty-five to fifty-five men.

Validating acts.

SEC. 3. That all acts done by said company since the expiration of its charter, in conformity thereto, shall be, and the same are hereby, declared to be good and valid, to all intents and purposes, notwithstanding the expiration of said charter.

Approved December 21, 1868.

No. 87. AN ACT TO PROVIDE FOR THE PAYMENT OF THE FEES OF SHERIFFS FOR DIETING PERSONS CONFINED IN JAIL.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Comptroller-General be, and Accounts to he is hereby, directed to audit the accounts of Sheriffs for dieting and removing prisoners up to the first day of July, eighteen hundred and sixty-nine, and draw his warrant upon the State Treasurer for the payment of the same, in accordance with the provisions of the Act of the General Assembly, ratified on the nineteenth day of December, eighteen Treasurer to hundred and sixty-six; and the Treasurer shall pay said warrant out of pay warrants. any funds in the Treasury appropriated for that purpose, or not other-

Counties.

be audited.

wise specially appropriated.

SEC. 2. The Comptroller-General shall debit the amount of the said accounts thus paid to the several Counties, and on or after the first day To be reim- of July, eighteen hundred and sixty-nine, shall draw his warrant upon bursed by the the County Commissioners of the respective Counties for the amount of said accounts thus paid; and when presented with the proper vouchers, the said County Commissioners shall pay to the Comptroller-General the amount of said warrant, which the Comptroller-General shall at once pay over to the Treasurer, and credit the County with said amount upon his books.

Approved December 21, 1868.

ACT TO PUNISH SHERIFFS AND OTHER OFFICERS FOR VIO-No. 88. LATING THE HOMESTEAD.

Section 1. Be it enacted by the Senate and House of Representatives Manner of proceedings of the State of South Carolina, now met and sitting in General Assemprescribed. bly, and by the authority of the same, That no Sheriff, Constable or other

A. D. 1869.

Penalty.

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officer, whose duty it is to enforce executions, shall proceed in any other manner than that prescribed by Sections 1 and 2 of the Act entitled "An

Act to determine and perpetuate the Homestead."

SEC. 2. Should any officer sell any real estate without complying with Section 1 of said Act, or sell or remove any personal property of the head of any family, whether the head of such family is a freeholder or not, without his or her consent, or first deducting the amount exempted by Section 32 of Article 2 of the Constitution of the State of South Carolina, in the manner provided by Section 2 of the Act referred to, and Section 1 of this Act, he shall be deemed guilty of malfeasance in office, and on conviction thereof shall, for the first offence, be fined in a sum not less than five hundred (500) dollars, nor more than one thousand (1,000) dollars, and for the second offence, shall be dismissed from office; and in either case shall be liable to the parties for all injuries, by reason of his wrongful levy or sale.

SEC. 3. All Acts or parts of Acts inconsistent with this Act are hereby

repealed.

Approved January 15, 1869.

AN ACT TO ESTABLISH A STATE ORPHAN ASYLUM.

No. 89.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The support and maintainance of the Orphan Asylum in the city of Charleston, known as the "Shaw Orphan Phan Asy-Asylum," is hereby assumed by the State, and it shall hereafter be known as the State Orphan Asylum of South Carolina, and shall be open to all orphan children in the State to the extent of its capacity.

State Or-

Sec. 2. For the purpose of carrying into effect the intention of this Act, the Governor of the State is hereby authorized, by and with the advice and consent of the Senate, to appoint five Trustees, two at least of whom shall be selected from outside the city of Charleston, who shall be be appointed. known as the Trustees of the State Orphan Asylum of South Carolina. Said Trustees shall remain in office four years, or until their successors are appointed, and shall have power to choose a chairman from their own number, and to make all necessary rules and by-laws for their own government.

Trustees to

Sec. 3. It shall be the duty of said Trustees, and they shall have the power, to take such steps as may be necessary, and in their judgment ex-thereof. pedient, to establish said Asylum on a permanent foundation. end they are hereby authorized to receive, invest and control any moneys, real estate, or other property that may be given for the aid or endowment of said Asylum, subject to any regulations now or hereafter provided by the General Assembly.

Duties

SEC. 4. If, in the opinion of said Trustees, the present location of the Asylum can be changed for one better suited to the wants of said Asy-location. lum, such change may be made: Provided, That no such change shall be made during the year 1869, if by so doing additional expense to the State shall be incurred.

Change of

Sec. 5. In carrying out the object of this Act, the Trustees shall have,

A. D. 1869.

purchase or lease.

and are hereby invested with, authority to purchase or lease, as they may determine, such buildings, grounds, and other property, including house-Authority hold furniture, as may be needed for said Asylum; which property they and their successors in office shall well and truly hold in trust for the benefit of the aforesaid Asylum, and for no other purpose: Provided, That they shall at no time enter into any contract, or incur any obligation, binding the State for the payment of any sum in excess of the amount appropriated by this or any other Act for the support and maintainance of said Asylum.

To employ persons.

rules.

Sec. 6. The Trustees shall have power to select and employ such persons as may be needed to care for the wants of the orphans gathered in To make said Asylum. They shall also have the power to make all necessary rules and regulations for the government of the same, and to do all other things that may lawfully be done for the promotion of its best interests, and for the welfare of its inmates. Said Trustees shall receive no compensation for their services.

Annual reports.

Sec. 7. The Trustees shall, on or before the fourth Tuesday of November in each year, report to the General Assembly, through the Governor, a detailed statement of all their doings, including the expenditure of moneys, the number, age and sex of the children, the number of admissions and deaths during the year, the number of children who have left the Asylum, and the place to which they have gone, and such other information as it may be in their power to give.

Appropriation.

SEC. 8. For the purpose of supporting and maintaining the State Orphan Asylum during the year ending October 31, 1869, the sum of five thousand dollars, if so much be needed, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Board of Trustees; and the Treasurer of the State is hereby authorized, with the approval of the Governor, to pay the same upon the order of the Chairman of said Board, in sums not exceeding five hundred dollars at any time.

Approved January 19, 1869.

No. 90. AN ACT TO RENEW THE CHARTER OF PENDLETON VILLAGE, IN THE COUNTY OF ANDERSON.

Whereas the charter of the Village of Pendleton has recently expired

by limitation:

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the charter of the Village of Pendleton be, and the same is hereby, renewed for the term of fourteen (14) years, and that during such period the said incorporation shall be entitled to all the powers and privileges, and be subject to the same conditions as are expressed in the last renewal of said charter, except such as do conflict with the Constitution of South Carolina and the Ordinances of the late Convention of 1868.

Approved February 4, 1869.

Renewal of charter.

AN ACT TO ALTER AND AMEND THE CRIMINAL LAW.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, Capital punishment, except in the ishment abol-

No. 91. Capital punished.

A. D. 1869.

SEC. 2. Manslaughter, or the unlawful killing of another without malice, express or implied, shall be punishable by hard labor in the Pen-ter. itentiary, not exceeding thirty years nor less than two years.

Manslaugh-

SEC. 3. The crime of burglary shall be punishable by hard labor in the Penitentiary for a period not exceeding thirty years nor less than one. The crimes of rape and arson shall be punishable by hard labor in the Penitentiary for life, or for a period not less than ten years, according to arson. the aggravation of these offences.

Burglary.

SEC. 4. The benefit of clergy is hereby abolished.

Rape and

Approved February 4, 1869.

case of wilful murder, is hereby abolished.

Benefit of clergy abol-ished.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE TEMPORARY ORGANIZATION OF THE EDUCATIONAL DEPARTMENT OF THE STATE."

No. 92.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section seven of an Act entitled Amendment. "An Act to provide for the temporary organization of the Educational Department of the State" be, and the same is hereby, amended, by annexing thereto the following words, to-wit: "Nor until said account shall have been approved by the State Superintendent of Education and a warrant shall have been drawn by the Comptroller-General on the State Treasurer for the payment of the same."

SEC. 2. That Section eight of said Act be, and the same is hereby, amended, by annexing thereto the following words, to-wit: "Nor until said account shall have been approved by the State Superintendent of Education and a warrant shall have been drawn by the Comptroller-General on the State Treasurer for the payment of the same.'

Approved February 4, 1869.

AN ACT TO INCORPORATE THE AIKEN SANITARY ASSOCIATION.

No. 93.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, P. A. Jewett, P. G. Rockwell, L. D. Wilcoxen, and their associates and their successors, are hereby constituted tion. a body politic and corporate by the name of the Aiken Sanitary Association, with power to sue and be sued, to plead and be impleaded, in all Courts of Law and Equity, may enjoy all the privileges incident to corporations, and may purchase, hold and convey real and personal estate, to an amount not exceeding two hundred thousand dollars. Said corpora-

Incorpora-

A. D. 1869.

tion may have and use a common seal, which they may alter at pleasure. The business of said corporation shall be the constructing, keeping and maintaining a sanitarium or hotel in the town of Aiken, or such other location in the State of South Carolina as may be selected, for the accommodation of invalids and others, and to do generally all such business as said corporation may deem necessary and requisite in conducting a sanitary institution or hotel.

Sec. 2. The capital stock of said corporation shall be divided into

Shares.

have lien.

shares of one hundred dollars each, which shares shall de deemed personal property, and be transferred only on the books of said corporation, in such Company to form as the Directors may prescribe. And said company shall at all times have a lien on all the stocks or property of the members of said corporation, invested therein, for all debts due from them to said corporation; To go into and said corporation may organize, go into operation and commence business whenever and as soon as fifty thousand dollars of said stock shall be subscribed for, and ten per cent. of the same paid into the treasury of said

operation.

company, in cash, and a certificate signed by the President and Secretary

of said company under oath, setting forth said subscription and payment, shall be filed in the office of the Secretary of State.

Sec. 3. The stock, property and affairs of said corporation shall be

Board of Directors.

managed by a Board of not less than three nor more than nine Directors. one of whom shall be chosen President by them, and all of whom shall hold their offices for one year, and until others are chosen; and said Directors shall be annually elected, at such times and places as the by-laws of said corporation shall prescribe. A majority of said Directors, when met, shall in all cases constitute a Board for the transaction of business; and a majority of the stockholders at any legal meeting shall be capable of transacting the business of said meeting, each share entitling the owner thereof to one vote, which vote may be given in person, or by lawful The first meeting of said corporation hereby formed may be called by a majority of the persons named in the first Section of this Act, at such time and place, and upon giving such notice thereof, as they shall deem reasonable and proper.

Transaction of business.

To fill vacancies.

Elect officers.

time being, shall have power to fill any vacancy which may happen by death, resignation or otherwise, for the current year, to appoint a Secretary and Treasurer, and such other officers as may be necessary; and may require the Treasurer and other officers to give bonds for the faithful discharge of their trust and duty as said Directors may deem proper; and also to make and establish such by-laws, rules and regulations as they shall deem expedient for the management of the affairs of said corporation, and the same to alter and repeal: Provided, The same be not inconsistent with the laws of this State or of the United States.

SEC. 4. The President and Directors, or a majority of them, for the

By-laws.

SEC. 5. The books of said corporation, containing their accounts, shall at all reasonable times be open for the inspection of any of the stockholders of said corporation; and annual statements of the accounts of the said corporation shall be made, and submitted to the annual meetings of the The Directors may call in the subscription to the capital stockholders. stock by instalments, in such proportion, and at such times and places, as they may deem proper, giving due notice thereof, under such regulations and conditions as they may prescribe.

SEC. 6. The said corporation shall, within thirty days after each annual

Inspection of books.

meeting of the stockholders, lodge a certificate with the Secretary of A.D. 1869. State, setting forth the amount of capital stock of said company actually paid in, and the amount of the liabilities of the said corporation, which certificate shall be signed by the President and Secretary of said company, and be verified by their oath.

Stock paid

SEC. 7. This Act shall continue and be in force for ninety-nine years.

Approved February 5, 1869.

AN ACT to provide for the pay of Commissioners and Mana-No. 94. GERS OF ELECTION.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That twenty-six thousand dollars, or so much thereof as may be required, are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the Commissioners and Managers of Election, their Clerks and Messengers, appointed under the provisions of the Act of September 26, 1868, entitled "An Act to provide for the next general election and the manner of conducting the same," and to defray the expenses necessarily incurred by said Commissioners and Managers in furnishing boxes, stationery, &c.

Comptr o 1-

Appropria-

SEC. 2. The Comptroller-General is hereby required to audit the accounts of said Commissioners, Managers and Clerks, and to draw his war-ler-General to audit acrants upon the Treasurer for the payment of the same, and no Commiscounts. sioner, Managers, Clerks or Messengers shall receive pay save for services actually rendered agreeably to the provisions of the Act mentioned in Section 1 of this Act.

Approved February 8, 1869.

AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO No. 95. AUTHORIZE THE SALE OF THE COLUMBIA CANAL."

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That so much of Section 1 of an Act Amondment. to authorize the sale of the Columbia Canal, passed the twenty-first of September, 1868, as requires the purchaser or purchasers of said canal to complete the widening and deepening of said canal, and that the same shall always be kept open and in proper order for boating purposes, (free of all charges for toll or otherwise,) as far as the same is now used, be so modified as to allow the purchaser or purchasers to select some point on the canal, above Geiger's Mill, at which the widening or deepening process may begin; and that said purchaser or purchasers shall have authority to build a dam across the river at the point so selected. All the other requirements of said Section 1 of an Act to authorize the sale of the Columbia Canal to remain of full force and effect.

Approved February 8, 1869.

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23



A. D. 1869. AN ACT to incorporate the Mission Presbyterian Church, of THE CITY OF CHARLESTON.

No. 96.

tion.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Incorpora- bly, and by the authority of the same, The members of the corporation known as the "Mission Presbyterian Church," in the city of Charleston, together with the officers and members of said corporation, be, and are hereby declared to be, a body politic and corporate, by the name and style of the "Mission Presbyterian Church," and as such shall have power to adopt such Constitution and to make such by-laws as may be necessary for the government of the same, and not repugnant to the laws of the land, and shall have such council, trustees, elders and deacons, their successors in office, as they may select; to sue and be sued, plead and be impleaded, by their coporate title, in any Court of Law or Equity in this State; to have and use a corporate seal; to have and enjoy every right, power and privilege incident to such corporation; and the said corporation is empowered to hold, retain, possess and enjoy all such property, real and personal, as the corporation may hereafter possess, or be entitled to, or which shall hereafter be given, bequeathed or devised to, or in any manner acquired; and to sell and transfer the same, or any part thereof; and enjoy and exercise all rights, powers and privileges as are incident to such corporations.

SEC. 2. This Act shall be deemed a public Act, and shall continue in

force for the term of twenty-five years.

Approved February 13, 1869.

AN ACT TO INCORPORATE THE WILSON'S BRIDGE COMPANY. No. 97.

Tolls.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Corporators. and by the authority of the same, That P. W. Acker, James E. Pickle, Willis Allen, Benjamin Townsend, Jasper Wilson, C. G. Garrison and W. S. Stansell, of Anderson and Greenville Counties, and their associates and successors, be, and the same are hereby, declared to be a body politic and corporate, by the name and style of "The Wilson's Bridge Com-

pany."

Sec. 2. That the said corporation shall have the privilege to keep in good repair the bridge now built over Saluda River, known as "Wilson's "for the term of fourteen years, and be allowed to receive and collect the following rates of toll, to-wit: For a footman, five (5) cents; for man and horse, ten (10) cents; for all carriages drawn by one horse, mule or ox, twenty (20) cents; for all carriages drawn by two horses, mules or oxen, twenty-five (25) cents; for all carriages drawn by three horses, mules or oxen, thirty (30) cents; for all carriages drawn by four horses, mules or oxen, forty (40) cents; for all carriages drawn by five or six horses, mules or oxen, fifty (50) cents; for horses, single, five (5) cents per head; for cattle, three (3) cents per head; and for hogs and sheep, three (3) cents per head: Provided, All passengers shall be charged only one fare for going and returning on the same day: And pro-

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vided, further, That no one shall be charged going to or returning from church or elections, or children going to or returning from school.

Sec. 3. The said company shall be subject to any regulations hereafter adopted by the General Assembly for the government of such companies.

Approved February 13, 1869.

AN ACT TO ENFORCE THE PROVISIONS OF THE CIVIL RIGHTS BILL OF THE UNITED STATES CONGRESS.

No. 98.

A. D. 1869.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passage of this Act it shall not be lawful for common carriers, or any party or carriers. parties engaged in any business, calling or pursuit, for the carrying on of which a license or charter is required by law, municipal, State, Federal or otherwise, to discriminate between persons on account of race, color or previous condition, who shall make lawful application for the benefit of such business, calling or pursuit.

Common

Sec. 2. Any party so discriminating shall be considered as having violated this Act, and, upon conviction, shall be punished by a fine of not less than two hundred dollars, or imprisonment for not less than six months in the Penitentiary.

Penalty.

Sec. 3. No Act of incorporation shall be conferred upon any organization, the rules and regulations of which contain features not compatible with the provisions of this Act.

Sec. 4. All Acts or parts of Acts inconsistent with this Act are hereby

repealed.

Approved February 13, 1869.

AN ACT TO INCORPORATE CERTAIN FIRE ENGINE COMPANIES.

No. 99.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the "United Fire Engine Company," of Charleston, the "Neptune Fire Engine Company" and the tion. "Palmetto Fire Engine Company, of Greenville, the "German Fire Engine Company," of Charleston, and the "Independent Young America Fire Engine Company," formerly under the name and style of the "Orangeburg Fire Engine Company," of Orangeburg, and the several persons who now are, or may hereafter be, officers and members thereof, and their successors, officers and members, be, and they are hereby, declared to be bodies politic and corporate, by the name and style of the "United Fire Engine Company," the "Neptune Fire Engine Company," the "Palmetto Fire Engine Company," the "German Fire Engine Company," and the "Independent Young America Fire Engine Company;" and that the said corporations may, by their corporate names, sue and be sued, implead and be impleaded, in the Courts of this State; and shall be able and empowered, in law, to purchase, have, hold, enjoy and possess

Incorpora-

A. D. 1869. any goods, chattels, lands, tenements, or real estate of what kind or nature soever; and the same, or any part thereof, to sell, alien or convey, at Amount of their will and pleasure: Provided, however, That the property so to be property. held shall not exceed the annual value of five thousand dollars; and each

of the said corporations shall have power to make a common seal, with power to change and alter the same as often as they shall deem necessary. Sec. 2. That this Act shall be deemed and taken to be a public Act,

and shall continue in force for the term of fourteen years, and until the next meeting of the General Assembly thereafter, and no longer.

Approved February 13, 1869.

No. 100. AN ACT TO INCORPORATE THE CITIZENS' SAVINGS BANK OF SOUTH Carolina.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Incorpora- bly, and by the authority of the same, That F. W. McMaster, J. P. Thomas, Richard O'Neale, Jr., E. H. Heinitsh, J. Eli Gregg, Thomas E. Gregg, John B. Palmer, Daniel Ravenel, Jr., Benjamin H. Rutledge, and Robert G. Chisolm, together with such other persons as are now, or may hereafter be, associated with them, shall be, and they are hereby, constituted and made a body politic and corporate, by the name of "The Citizens' Savings Bank of South Carolina," with their office in the city

Capital.

of Columbia: Provided, That the capital stock of said Bank shall not exceed the sum of five hundred thousand dollars: And provided, further, That this Act shall not have the force of law until twenty thousand dollars of the capital stock of said Bank shall have been paid in, and satisfactory evidence furnished to the Comptroller-General.

Powers.

Sec. 2. The said corporation shall have power and authority to receive deposits and to invest the same, their capital stock and other funds, in bank or other stocks, in the purchase of bonds or stocks of this or any other State of the United States, or of the United States; to buy and sell gold and silver; to lend money on unencumbered real estate, in amounts not beyond sixty per cent. of its actual value; and the said corporation shall have power and authority to have, use and keep a common seal, and the same to alter at will; to sue and be sued, to plead and be impleaded in any Court of Law or Equity in this State, and to have and enjoy all and every right, privilege, power and franchise incident and belonging to incorporated bodies, and shall be capable of taking, holding and disposing of their capital stock according to such rules and regulations as they shall, from time to time, establish; and also taking, holding, dividing, disposing of or investing the increase, profits or emoluments of their said capital stock, and shall have the rights and power to acquire, purchase, take and hold, in their corporate name, lands and real estate, and the same to demise, grant, sell, assign, exchange and convey in fee simple or otherwise; and the said corporation shall have authority to establish branch offices at such other points in the State as they may elect.

Branches.

Officers.

SEC. 3. The business and property of such corporation shall be managed and controlled, and the President, Cashier, Directors and all other officers of the Bank appointed, by the stockholders; and the said stockuse#pd-google

holders shall have power and authority to make rules and by-laws not repugnant to the laws of the land, and to modify and amend such rules and by-laws at pleasure. Regular meetings of the stockholders shall be held on the first Tuesdays of January, April, July and October in each year, at 10 o'clock A. M., at the office of such corporation, in the city of Columbia, and special meetings shall be held whenever called for by the holders of at least one quarter of the shares of the capital stock: Provided, That a notice signed by the stockholder or stockholders calling said meeting, be advertised in a newspaper published in the city of Columbia at least one week prior to the time of such proposed meeting: Or, provided, That written notice shall be given to all the stockholders at least three days before such proposed meeting. A representation of a majority of the entire stock, by the holders or their proxies, shall be requisite to constitute a quorum at any and all meetings of the stockholders, and at all such meetings each share shall entitle its holder to one Absent stockholders may vote by agents or proxies, ducing proper written authority therefor. The said stockholders shall, at the first meeting when a quorum is present, elect twelve Directors and such other officers as they may deem necessary, they to hold office for twelve (12) months, unless removed in the meantime or their successors appointed by said stockholders.

SEC. 4. The said corporation shall have full power to enforce upon Enforce laws. their members the due observance of all rules and by-laws for the good government and management of the affairs of the said corporation, and for the increase of the capital stock of the same, under such penalties as in and by the said rules and by-laws shall be limited and appointed; and to this end, if need be, shall and may institute and maintain, in their corporate name, against any one or more of their number, all the necessary suits, actions and pleas, either at law or in equity, for the recovery of any sum or sums of money to the use of the said corporation in as ample a manner as such suits might be maintained against persons not members

of said corporation.

SEC. 5. The liability of Directors and stockholders shall be restricted to the stocks held by them, respectively. No Director or officer of said Directors. corporation shall borrow or use any portion of the funds thereof, be surety for loans to others, or in any manner, directly or indirectly, be an obligor for money borrowed of or loaned by the corporation.

SEC. 6. No loan of money shall be made by said corporation to any stockholder owning more than four (4) shares therein; and if any such stockholders loan is made to such stockholders, the officers who make it, or assent forbidden. thereto, shall be jointly and severally liable, to the extent of such loan and interest, for all the debts of the corporation contracted before the repayment of the sum so loaned. The said corporation shall have power to buy and sell exchange, and to loan money on notes or drafts, secured by good collateral security.

SEC. 7. When any deposit is made by a person being a minor, the said corporation shall pay to such depositor such sums as may be due him,

whether he have a guardian or not.

SEC. 8. This Act shall de deemed a public Act, and shall be judicially taken notice of without special pleading, and the charter hereby granted shall continue and be in force thirty years.

Approved February 13, 1869.

A. D. 1869.

By-laws. Meetings.

Quorum.

Proxies.

Directors.

Liability of

Loans to

Minors.

A. D. 1869. AN ACT TO AUTHORIZE THE BUILDING OF A BRIDGE TO CONNECT THE ISLANDS OF WADMALAW AND JOHN'S.

No. 101.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Authority. bly, and by the authority of the same, That the Commissioners of the County of Charleston be, and the same are hereby, authorized and directed to cause to be built at once a suitable bridge for the public use and convenience, over the creek known as Church Creek, which creek now separates Wadmalaw Island from John's Island.

To contract.

SEC. 2. That for the purpose of carrying into effect the provisions of the foregoing Section, the Board of Commissioners of Charleston County are hereby directed to enter into contract with any responsible party or parties for building the said bridge, said contract to be awarded to the lowest responsible bidder therefor, after public notice, published in one or more of the Charleston daily papers for two weeks successively, of the terms and conditions thereof.

Tax.

SEC. 3. That all expenses and cost of building said bridge shall be paid by a tax levied upon the real and personal property upon the said Islands, to be levied by the County Commissioners, and collected in the same manner and at the same time as other County taxes: Provided, That the cost of said bridge shall not exceed two thousand dollars.

Approved February 13, 1869.

AN ACT TO AUTHORIZE A LOAN FOR THE RELIEF OF THE TREASURY. No. 102.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Authority and by the authority of the same, That the authority be, and is hereby, given to borrow, in accordance with the provisions of Section 5 of this Act, on the credit of the State of South Carolina, on coupon bonds, within twelve months from the passage of this Act, a sum not exceeding one million dollars, or as much thereof as may be deemed necessary for the relief of the Treasury of the State; said bonds to date from the 1st of January, 1869, and to bear interest at seven per cent., payable semiannually, and redeemable at any time, at the option of the State, within twenty years from the date of said bonds.

Payable at.

for loan.

SEC. 2. That the bonds and coupons of the said loan shall be paid at the Financial Agency of the State, in the city of New York.

To be signed.

Sec. 3. That the bonds issued under the provisions of this Act shall be signed by the Governor, and countersigned by the State Treasurer; and all such obligations shall be under the seal of the State. The coupons shall be signed by the State Treasurer.

Security.

SEC. 4. That the faith, credit and funds of the State of South Carolina are hereby solemnly pledged for the punctual payment of the interest and the redemption of the principal of the loan authorized by this Act.

As collate-

SEC. 5. That, to carry out the intent of Section 1 of this Act, said bonds may be used as collateral security for loans by the Financial Agent of the State, in the city of New York, in accordance with the directions of the Governor, Attorney-General, Comptroller-General and

A. D. 1869.

Tax.

Treasurer of this State, who may also authorize the said Financial Agent to sell said bonds at the highest market price, but not less than for a sum to be fixed by them; and they are further authorized to pay such sums of money as may be necessary to effect the purposes of this Act out of any funds of the State not otherwise appropriated.

SEC. 6. That an annual tax, in addition to all other taxes, shall be levied upon the property of the State sufficient to pay the interest on the loan hereinbefore authorized at the times when such interest shall fall

Approved February 17, 1869.

AN ACT TO RE-ENACT CERTAIN ACTS LENDING THE NAME AND CREDIT OF THE STATE TO THE GREENVILLE AND COLUMBIA RAILROAD COM-PANY, AND TO VALIDATE THE ACTION OF SAID COMPANY THERE-UNDER.

Re-ena ct-

No. 103.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to alter and amend an Act entitled 'An Act to lend the name and credit of ment. the State to the Greenville and Columbia Railroad Company in the readjustment of their debt," ratified by the General Assembly of the Provisional Government of this State on the twentieth day of December, in the year of our Lord one thousand eight hundred and sixty-six, be, and the same is hereby, re-enacted and continued in force; and all the actings of the said Greenville and Columbia Railroad Company done in pursuance of the provisions of the said mentioned Act be, and the same are hereby, validated and confirmed.

SEC. 2. To enable the said company to fund the interest due upon their mortgage and guaranteed debt for the six months, to-wit: from January ment. 1 to July 1, 1868, the Comptroller-General is authorized and directed to endorse the name and credit of the State upon the bonds and certificates of indebtedness of the said company to the amount of fifty thousand dollars, to be applied in all respects, and in the same manner, and with the same conditions and restrictions, as is provided in the said Act of December 20, 1866, for the funding of interest; and the statutory lien is hereby extended to cover the additional sum of fifty thousand dollars herein provided.

Endorse-

Sec. 3. This Act shall not be of force until said Greenville and Columbia Railroad Company consent to the amendment of their charter, so that the property of said corporation shall be subject to taxation in conformity with Section 2 of Article XII of the Constitution, and said consent be certified, under the seal of said company, to the Comptroller-General and Secretary of State. Upon the filing of said consent, the said charter shall be deemed and held to be modified in conformity with said Section of the Constitution.

Taxation.

In the Senate House the sixth day of February, in the year of our Lord one thousand eight hundred and sixty-nine.

CHAS. W. MONTGOMERY, President of the Senate pro tem. FRANKLIN J. MOSES, Jr., Speaker House of Representatives.

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A. D. 1869.

Returned to Senate with objections of His Excellency the Governor February 10, 1869, at 12:30 P. M.

IN THE SENATE, February 16, 1869.

On the question "Shall this Act become a law, the objections of His Excellency the Governor to the contrary notwithstanding?" the yeas and nays were ordered, the Act passed by a viva voce vote of yeas 20, nays 8, and ordered to be sent to the House of Representatives.

By order:

J. WOODRUFF, Clerk of Senate.

In the House of Representatives, February 17, 1869.

On the question "Shall this Act become a law, the objections of His Excellency the Governor to the contrary notwithstanding?" the yeas and nays were ordered, and the Act passed by a viva voce vote of yeas 87, nays 14, and becomes a law in accordance with Section 22, Article III, of the Constitution.

Ordered to be returned to the Senate.

By order:

Section 1. Be it enacted by the Senate and House of Representatives

A. O. JONES, Clerk of House of Representatives.

No. 104. AN ACT to incorporate the Lake Swamp Navigation Company, of Horry County.

Commissioners.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That John K. Cooper, James C. Beatty, S. N. Anderson, B. J. Sessions, Benjamin Holt, S. D. Barnhill, C. T. Pitman and A. H. Skipper, of the County of Horry, in the said State, be, and they are hereby, appointed a Board of Commissioners to receive subscriptions to the capital stock of the Lake Swamp Navigation Company, of the said County, in said State, the object of which shall be to clear out the said swamp, in order that it may be rendered navigable, and enable the proprietors of the lands adjacent thereto to get their timber and The capital stock of the said company shall consist of products to market. one hundred shares of fifty dollars for each share. The said Commissioners, or a majority of them, shall open books at the court house of said County, at such time and place as they may designate, giving at least two weeks' notice of the same; and shall receive subscriptions to said capital stock, requiring at the time of said subscription a payment to be made of five dollars on each share. The subscribers paying their subscription shall form the said company, and shall elect the officers required for the organi-

Capital.

Recogni-

tions and provisions hereinafter set forth.

Sec. 2. The said company, by its properly authorized officers, shall enter into a recognizance, with good and sufficient security, before the Clerk of the Court of the said County, in the sum of five thousand dollars, for the faithful performance of the said work within a specified time,

zation of the same; and the said company shall be subject to the condi-

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to begin from the first day of January, 1870, and at least five miles shall be put in navigable order each year; and the said company shall be authorized to charge, after the said work shall have been completed, five cents per stick for ton timber for each mile, as a compensation for clearing out said swamp and keeping the same in navigable order. And the Rightof way. said company shall have power to secure the right of way through said swamp, and to own such lands as may be necessary for its navigable purposes: Provided, The clear yearly income from such lands does not exceed the sum of ten thousand dollars: Provided, further, That right of way be granted according to the provisions of the Act passed by the special session of the General Assembly of South Carolina of 1868, entitled "An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations may be taken for the construction and use of canals, railways and other works of internal improve-

A. D. 1869. Rates.

ments." Sec. 3. That nothing contained in this Act of incorporation shall ever be so construed as by implication or otherwise to grant any powers not by this Act specifically given, or in conflict with the Constitution and laws made in pursuance thereof.

Limitation.

Incorpora-

Title.

Powers.

SEC. 4. This Act shall be deemed a public Act, and shall continue of force during the term of fourteen years.

Approved February 17, 1869.

AN ACT TO INCORPORATE THE ASHLEY FIRE ENGINE COMPANY, of Charleston, South Carolina.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Ashley Fire Engine Company, and the several persons who now are, or may hereafter be, officers and members thereof, and their successors, officers and members, be, and they are hereby, declared to be a body politic and corporate, by the name and style of the "Ashley Fire Engine Company," and that the said corporation may by its corporate name sue and be sued, implead and be impleaded in the Courts of this State, and shall be able and empowered in law, to purchase, have, hold, enjoy and possess, any goods, chattels, lands, tenements or real estates of whatever kind or nature soever, and the same, or any part thereof, to sell, alien or convey at their will and pleasure: Provided, however, That the property so to be held shall not exceed the annual value of five thousand dollars; and the said corporation shall have power to make a common seal, with power to change and alter the same as often as they shall deem necessary.

Sec. 2. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall continue in force for the term of fourteen years, and until the next meeting of the General Assembly there-

after, and no longer.

Approved February 17, 1869.

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ment.

use#pd-google http://www.hathitrust.org/access A. D. 1869. AN ACT TO RENEW THE CHARTER OF THE FERRY ACROSS THE GREAT Pee Dee River known as "Old Ports Ferry."

No. 106.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Re-enact - authority of the same, That the charter of the ferry across the Great Pee Dee River known as "Old Ports Ferry," in the County of Marion, be, and the same is hereby, re-enacted, and vested in Zachariah Russ, his heirs and assigns, for the term of ten years after the ratification of this Act, with the same rates of ferriage as heretofore fixed by law.

Approved February 17, 1869.

AN ACT TO INCORPORATE THE CALVARY BAPTIST CHURCH, OF THE CITY OF CHARLESTON.

Incorporators.

Whereas Charles Small, Edward M. Haig, George W. Russel, Samuel Steward, Thomas A. Davis and Daniel McAlpin, as Trustees of the Calvary Baptist Church, of Charleston, have prayed to be incorporated; therefore,

Section 1. Be it enacted by the Senate and House of Representatives

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, all those persons who now are, or who hereafter shall or may become, members of the said society, shall be, and they are hereby, incorporated, and are hereby declared to be a body corporate, in deed and in law, by the name and style of "The Calvary Baptist Church. of Charleston, for the advancement of Christianity in the State of South Carolina;" and, by the said name, shall have perpetual succession of officers and members, and a common seal, with power to change, alter and

make new the same as often as the said corporation shall judge expe-

Title.

Privileges.

dient. SEC. 2. That the said corporation shall be capable, in law, to purchase, have, hold, receive, enjoy, possess and retain to itself, in perpetuity or for any term of years, any lands, tenements or hereditaments, or other property of what nature soever, not exceeding the sum of fifty thousand dollars, or to sell or alien the same, as the said corporation shall think fit; and, by its said name, to sue and be sued, implead and be impleaded, answer and be answered unto, in any Court of law or equity in this State; and to make such rules and by-laws (not repugnant to the laws of the land) as for the order, rule, good government and management thereof may be thought necessary and expedient.

SEC. 3. That this Act be deemed a public Act, and shall continue in force for the term of twenty-five years, and, as such, shall be judicially

noticed in all the Courts of this State.

Approved February 26, 1869.

AN ACT TO INCORPORATE CERTAIN FIRE ENGINE COMPANIES, OF CHARLESTON, S. C.

Section 1. Be it enacted by the Senate and House of Representatives

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the United Fire Engine Company, and the several persons who now are, or may hereafter be, officers and members thereof, and their successors, officers and members, be, and they are hereby, declared to be a body politic and corporate, by the name and style of the United Fire Engine Company.

A. D. 1869. Incorpora-

United.

SEC. 2. That the Comet Star Fire Engine Company, Number Five, and the Prudence Fire Engine Company, are hereby constituted bodies corporate 5, and politic, under the name and style of the Comet Star Fire Engine Company, Number Five, and the Prudence Fire Engine Company, of Charleston.

Comet, No. 5, Prudence.

SEC. 3. That C. G. Tolley, J. H. Gadsden, J. M. Holloway, J. B. Stockein, and all persons who now are, or may hereafter become, members of the Niagara Fire Engine Company, No. 8, of Charleston, be, and are hereby, constituted and declared a body politic and corporate, by the name and style of the Niagara Fire Engine Company, of Charleston: *Provided*, That each of the above named companies, and the members thereof, shall at all times be subject to all laws and ordinances of this State, and of the city of Charleston, regulating the Fire Department of Charleston.

Niagara.

SEC. 4. The fire companies aforesaid shall have succession of officers and members, according to their respective by-laws, and shall have power, respectively, to make by-laws not repugnant to the laws of the land, and to have, use and keep a common seal, and the same to alter at will, to sue and be sued in any Court in this State, and to have and enjoy every right incident to incorporations. They are hereby respectively empowered to retain, possess and enjoy all such property, real and personal, as they may severally possess or be entitled to, or which shall hereafter be given, bequeathed to, or in any manner acquired by them, and to sell, alien or transfer the same, or any part thereof: *Provided*, That the amount so held shall in no case exceed the sum of ten thousand dollars.

Sec. 5. That the charters of the aforesaid fire engine companies, of

Privileges.

Charleston, shall continue in force for the term of fourteen years.

Approved February 24, 1869.

AN ACT TO INCORPORATE THE SOUTH CAROLINA PHOSPHATE COMPANY.

No. 109.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That George S. Cameron, A. S. Johnston, J. T. Welsman, Adam Johnston, James Hope, D. B. Hack, C. A. Rowland, John A. Moore, George M. Thew, Adrian C. Ives, Charles M. Cresswell and James Cresswell, and their associates and successors, are hereby made and created a body politic and corporate, under the name and style of "The South Carolina Phosphate Company," for the purpose of carrying on any kind of manufacturing, mining or chemical business, with a capital of one hundred thousand dollars, to be divided into one thousand shares of one hundred dollars each.

Incorporators.

SEC. 2. The said company shall have power, from time to time, to

A. D. 1869.

increase their capital stock to any amount not exceeding five hundred thousand dollars, including their present capital stock, whenever a major-Capital stock. ity of the stockholders present at any general meeting, or the Board of Directors, by their authority, shall determine. And such additional stock shall be divided exactly among the stockholders in proportion to their shares in the capital stock of the company at the time of such increase; but in case any stockholder should not desire to take his or her proportion of such increased stock, the same shall be allotted among the remaining stockholders, or books may be opened for the purpose of obtaining additional subscribers to such increased stock, in such manner as the company may deem expedient. And in no case shall the members who are unwilling to take their proportion in such increase of stock be assessed to contribute or to make up such increase. Such additional stock shall be subject to all the same provisions, restrictions and conditions as are directed by the provisions of this Act; and any such additional subscribers shall thereby become members of this company, and subject, in like manner, in proportion to their interest, to all the burthens, liabilities, responsibilities and conditions imposed upon the members of this company.

Neglect to pay installments.

Sec. 3. That if the proprietor of any share shall neglect to pay any installments assessed thereon for the space of thirty days after the time appointed for the payment thereof, the Treasurer of the company, by the order of the Directors, may sell, by public auction, a sufficient number of shares standing in the name of such stockholder to pay all the installments then due from him, with all necessary incidental charges. Treasurer shall give notice of the time and place of sales, and of the sum due, by advertising the same three weeks successively before the sale in one of the Charleston newspapers; and a bill of the sale of the share or shares so sold, made by the Treasurer, shall transfer said stock to the purchaser, who shall be entitled to a certificate thereof.

Liability of

SEC. 4. That every shareholder of the said company shall be, jointly shareholders. and severally, liable for all debts contracted during the time he or she shall be a shareholder in said company, to the extent of the par value of his or her stock not paid in: Provided, nevertheless, That no person holding stock in the said company as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estate and funds in the hands of such executor, guardian or trustee shall be liable, in like manner, and to the same extent, as the testator or intestate, or the ward or person interested in such trust funds would have been if he had been living and competent to act and hold the said stock in his own name: And provided, further, That no stockholder shall be personally liable for the payment of any debts contracted by the said company which are not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debts shall be brought against said company within one year after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in said company for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in said company, nor until an execution

upon a judgment or decree against the company for such debts shall have

been returned unsatisfied in whole or in part.

SEC. 5. That as soon as the capital to the extent of one hundred thousand dollars shall have been paid in, the President and Secretary shall capital paid make affidavit of the fact, and file the same in the office of the Secretary of State, and make publication thereof once a week for three weeks in a newspaper in the city of Charleston, which shall be legal notice to all persons dealing with said corporation; and if at any time they should increase their said capital stock, as hereinbefore provided for, as soon as the amount of such increased stock shall have been paid in, the President and Secretary shall, in like manner, make affidavits thereof, and file the same in the office of the Secretary of State, and make publication as aforesaid, which shall likewise be legal notice to all persons dealing with the said corporation.

SEC. 6. That the said company shall have such number of officers as shall be ordained and chosen by the rules and by-laws to be made for their government and direction, and shall have power and authority to make all rules and by-laws not repugnant to the Constitution and laws of the State, to regulate the issue of scrip and transfer of shares, to have and to keep a common seal, the same to alter at will, to sue and be sued, plead and be impleaded, in any Court of Law or Equity, to purchase, take and hold, sell and convey, in fee simple, or for any less estate, lands, tenements or hereditaments, goods, chattels, rights and credits, which may be connected with, or in any manner conducive to, the purpose for which said company is established, to dig and mine for earth, marls, rocks and minerals, to manufacture the same, and such other materials as they may purchase or acquire, into chemicals, acids and fertilizers, to carry on trade therein, and to cultivate such lands as may be purchased or acquired by the said company for the purpose aforesaid.

SEC. 7. That this Act shall be deemed and taken to be a public Act,

and shall continue of force for thirty years.

Approved February 25, 1869.

AN ACT TO INCORPORATE THE VAUCLUSE MANUFACTURING COM-PANY, IN THE STATE OF SOUTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, J. J. Gregg, Robert Toombs, B. S. Dunbar and Samuel G. Wyman, and their associates and successors, are hereby made and created a body politic and corporate, in law, by the name of the Vaucluse Manufacturing Company, for the purpose of manufacturing, dyeing, printing and finishing all goods of which cotton or other fibrous articles may form a part, as well as all machinery used for such purposes, and for the transaction of such business as may be necessarily connected therewith; and may erect such mills and other works as may be required to carry on such branches of manufacture; and they shall have power to raise, by subscription, in shares of one hundred dollars each, a capital of three hundred thousand dollars, with the privilege

A. D. 1869.

Notice of

Officers.

By-laws.

Powers.

No. 110.

Incorpora-

Objects.

Capital.



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A. D. 1869. of increasing the said subscription to a capital of six hundred thousand

Powers.

SEC. 2. And be it further enacted, by the authority aforesaid, That the said corporation may purchase and hold such real estate as may be required for the purposes of said corporation, or such as they may be obliged or deem it for their interest to take in the settlement of any debts due the said corporation, and may dispose of the same; and may sue and be sued in all Courts of law and equity, may have and use a common seal, and make such by-laws for their regulation and government as they may deem proper: Provided, They are not inconsistent with the Constitution and laws of the United States and of this State.

Capital paid

SEC. 3. The said corporation shall not go into operation until two hundred and fifty thousand dollars of the capital stock shall be paid, in gold or silver or United States Treasury notes, and an oath or affirmation of the payment thereof shall be made by the President, Treasurer and a majority of the Board of Directors, which shall be recorded in the Secretary of State's office, and published in at least two respectable newspapers in the State—one as near the establishment as circumstances will admit, the other in the city of Charleston—and this publication shall be repeated after the payment of each installment until the capital is paid in.

Liabilities.

SEC. 4. The members of the said corporation shall be liable, jointly and severally, for all debts and contracts made by such corporation, until three hundred thousand dollars of the capital stock authorized to be subscribed, as aforesaid, shall have been actually paid in; and no note or obligation given by any stockholder, whether secured by pledge of the stock in such corporation or otherwise, shall be considered as payment of any part of the capital stock until such notes or obligations shall have been actually paid in.

Personal property.

SEC. 5. That the capital stock shall be deemed personal property, and be transferable upon the books of the said corporation; and no part of the said capital stock shall, at any time, or upon any pretense whatever, be loaned to or divided amongst the stockholders; neither shall the capital be withdrawn or divided amongst the stockholders until all the liabilities of the company are lawfully paid; and no dividends shall be declared, except from the net earnings of the company. Each stockholder shall have one vote for each share which he may own or represent at the election of Directors and all meetings of the company.

Neglect to ments.

SEC. 6. If the proprietor of any share shall neglect to pay any installpay asses a - ment assessed thereon for the space of sixty days after the time appointed for the payment thereof, the Treasurer of the company, by the order of the Directors, may sell, by public auction, a sufficient number of such delinquent shares to pay all installments then due from him, with all necessary incidental charges. The Treasurer shall give notice of the time and place of sale, and of the sum due on each share, by advertising the same three weeks, successively, before the sale, in some newspaper which may be printed near the vicinity of the establishment, and a bill of sale of the share so sold, made by the Treasurer, shall transfer said stock to the purchaser, who shall be entitled to a certificate thereof.

Com missioners to open books.

Sec. 7. J. J. Gregg, Robert Toombs, B. S. Dunbar, Samuel G. Wyman may open books and take subscriptions for the capital stock in such manner and at such places as they may deem expedient; and whenever such subscriptions shall amount to two hundred and fifty thousand (250,000)

dollars, the stockholders, having had two weeks' notice in writing or in a public newspaper in the vicinity of the establishment, may meet and proceed to elect such Directors and officers as they may deem necessary for conducting the affairs of the company, they to hold office until their successors shall be elected.

A. D. 1869.

SEC. 8. The Directors shall submit to the stockholders, annually, a written statement, under oath or affirmation, of the Treasurer of the cor- Directors. poration, setting forth the amount of capital stock paid in and general assets of the company, and also of the amount of all then existing debts; which statement shall be published in the newspapers located nearest said

Report of

manufactory.

SEC. 9. The service of the process of any Court of this State shall be legal and valid on said body politic and corporate, if the same shall be process. left at the manufactory: Provided, The President of the company is absent from and beyond the limits of the County in which said manufactory That this Act shall continue in force for thirty years, and no part of the capital stock or any of the funds of the said corporation shall at any time during the continuance of this charter be used or employed directly or indirectly in banking operations, or for any purposes whatever inconsistent with this Act.

Service of

SEC. 10. The total amount of the debts which the said corporation shall at any time owe shall not exceed the amount of its capital stock actually bility of Dipaid in; and in case of excess, the Directors under whose administration rectors. it shall happen shall be, jointly and severally, liable for the same in their natural capacities. Such of the said Directors as may have been absent when the said excess was contracted or created may, respectively, exonerate themselves from being so liable by forthwith giving notice of the fact to the stockholders at a general meeting, which they shall have power to call for that purpose: Provided, further, That this Act shall be deemed

and taken to be a public Act, and shall continue in force for the term of twenty years, and until the meeting of the first General Assembly there-

Responsi-

after. Approved February 26, 1869.

AN ACT TO RENEW THE CHARTER OF THE CHARLESTON ANCIENT ARTILLERY SOCIETY.

No. 111.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Charleston Ancient Artillery Society be, and the same is hereby, rechartered, with all the rights, powers and privileges heretofore granted to it, and that the same be, and is hereby, confirmed in its right, title, interest and estate, in and to all property, real and personal, which it now owns, or may hereafter lawfully acquire.

Recharter.

SEC. 2. That this Act shall be a public Act, and shall continue in force during the term of fourteen years.

Approved February 26, 1869.

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A. D. 1869. No. 112. AN ACT TO INCORPORATE THE SUMTER FIRE ENGINE COMPANY AS A PART OF THE FIRE DEPARTMENT OF THE TOWN OF SUMTER.

Corporators.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That E. C. Green, William H. Girardeau, and their successors in office, be, and they are hereby, constituted a body corporate and politic, under the name and style of the "Sumter Fire Engine Company," with a capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure, and with all other rights, privileges and immunities that are now secured by law to like incorporate bodies.

Sec. 2. This Act shall be deemed a public Act, and shall remain in

force for a term of fourteen years.

Approved February 26, 1869.

No. 113. AN ACT TO INCORPORATE THE ROCKY RIVER BAPTIST CHURCH, IN Anderson County.

Incorpora-

Whereas Wm. Tucker, R. D. Newel, J. B. Hampton, B. D. Hall, D. J. Tucker, and J. C. Hall, as Trustees of the Rocky River Baptist Church,

Section 1. Be it enacted by the Senate and House of Representatives

in Anderson County, have prayed to be incorporated; therefore,

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same: From and immediately after the passage of this Act, all those persons who now are, or who hereafter may become, members of the said society, shall be, and they are hereby, incorporated, and are hereby declared to be a body corporate in deed and in law, by the name and style of the "Rocky River Baptist Church," Anderson County, for the advancement of Christianity in the State of South Carolina, and by the said name shall have perpetual succession of officers and members, and a common seal, with power to change, alter and make new the same as often as the said corporation shall judge expedient.

Title.

SEC. 2. That the said corporation shall be capable, in law, to purchase, Privileges. have, hold, receive, enjoy, possess and retain to itself, in perpetuity or for any term of years, any lands, tenements, or hereditaments, or other property, of what nature soever, not exceeding the sum of fifty thousand dollars, or to sell or alien the same, as the said corporation shall think fit, and by its said name to sue and be sued, implead and be impleaded, answer and be answered unto, in any Court of law or equity in this State, and to make such rules and by-laws, (not repugnant to the laws of the land,) as for the order, good government and management thereof may be thought necessary and expedient.

SEC. 3. That this Act shall be deemed a public Act, and as such shall be

judicially noticed in all the Courts of this State.

Approved February 26, 1869.

AN ACT TO INCORPORATE THE UNION STAR FIRE ENGINE COMPANY AS A PART OF THE FIRE DEPARTMENT OF THE CITY OF CHARLESTON.

A. D. 1869. No. 114.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That S. Anderson, James Gillard, tors. and their successors in office, be, and they are hereby, constituted a body corporate and politic, under the name and style of the Union Star Fire Company, with a capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure, and with all other rights, privileges and immunities that are now secured by law to like incorporated.

Incorpora-

Title.

Privileges.

bodies. SEC. 2. This Act shall be deemed a public Act, and shall remain in force for the term of fourteen years.

Approved February 26, 1869.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO LEASE THE STATE ROAD RUNNING FROM THE COUNTY OF GREENVILLE, IN THIS STATE, ACROSS THE SALUDA MOUNTAIN, TO THE COUNTY OF HENDER-SON, IN NORTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The Comptroller-General of this State be, and he is hereby, authorized to lease the State Road, known as the Saluda Mountain Road, running from Greenville County, in this State, across the Saluda Mountain, to Henderson County, in North Carolina, to the highest bidder for the term of three years. The Comptroller-General shall give public notice in the newspapers of Greenville and the city of Columbia for thirty days, and receive sealed proposals for said road during that time, and shall lease said road within forty days after the passage of this Act.

Notice of

SEC. 2. The said Comptroller-General is further directed to require a good and sufficient bond of the said lessee for keeping the road in good repairs, and to prescribe such other conditions of the said lease as may by him be judged proper and necessary to secure a faithful observance of all the requirements of the said lease.

SEC. 3. The said Comptroller-General is furthermore empowered to execute the said lease in the name of the State, and to do all other acts necessary to carry into effect the foregoing provisions of this Act.

SEC. 4. All Acts or parts of Acts conflicting with this Act are hereby

repealed.

Approved February 26, 1869.

AN ACT TO INCORPORATE THE "HOME INSURANCE COMPANY," OF No. 116. CHARLESTON.

SECTION 1. Be it enacted by the Senate and House of Representatives of

Title.

the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the persons and bodies corporate who shall become stockholders in the manner hereinafter prescribed, and their successors, shall be a body politic and corporate, under the name, style and title of the "Home Insurance Company," of Charleston.

Capital.

Commissioners.

Sec. 2. The capital stock of said company shall be two hundred thousand dollars, to be divided into eight thousand shares, of twenty-five dollars each, and shall be raised in the following manner: The following persons are hereby appointed Commissioners to receive subscriptions to the capital stock, to-wit: Augustus L. Tobias, George W. Williams, F. J. Pelzer, Henry Cobia and Henry Buist. The said Commissioners, or a majority of them, shall open books, within thirty days from the passage · of this Act, at such places in Charleston as they shall appoint, from 9 o'clock of the forenoon until 5 o'clock of the afternoon, and receive sub-

tions.

Subscrip - scriptions to the said stock: Provided, The said Commissioners shall have given at least five days' notice, by advertisement in two daily gazettes in the city of Charleston, of the time and place of receiving subscriptions, and shall require a payment of five dollars on each share, to be made at the time of subscription therefor, payment thereof to be made in the national currency of the banks of this or other States, or in the currency of the United States, or in stocks or bonds of the city of Charleston, or of this State, or of the United States, or other good and valid securities within the United States, the stocks or bonds to be estimated at the cash market value by the Commissioners: Provided, also, That the Board of Directors shall have power, in like manner and at such time as they shall see fit, to increase the said capital to the sum of one million dollars. Sec. 3. The subscribers paying their subscription money, respectively,

Company.

shall form the company, upon complying with the conditions and subject to the provisions hereinafter set forth.

Distr i b u -

Privileges.

SEC. 4. That if, at the opening of the books, more than eight thousand tion of shares. shares shall be subscribed, the Commissioners shall distribute the eight thousand shares of which the capital stock is to consist among the subscribers, as nearly as may be, in proportion to the number of shares subscribed by them, respectively; but the subscription of twenty shares or less shall not be reduced unless the whole number of shares subscribed for cannot otherwise be reduced to eight thousand.

Sec. 5. That in case the number of shares subscribed shall be less than eight thousand the Commissioners shall receive further subscriptions to make up that number at any time within one year after the first opening

of the books.

Sec. 6. That the said company, under its corporate name, shall have succession of officers and members, and all the powers, privileges and franchises incident to a corporation, and shall be capable of taking, holding and disposing of their capital stock, according to such rules and regulations as they shall, from time to time, establish; and also of taking, holding, or disposing of, or investing, the increase, profits or emoluments of their said capital stock; and shall have full power and authority to have and use a common seal, and the same to alter and renew at their pleasure; and by the name and title aforementioned, shall be able and capable, at law and in equity, to sue and be sued, implead and be impleaded, answer and be answered unto, in all manner of suits, pleas, demands and judicial proceedings whatsoever; and they are authorized and

use#pd-google http://www.hathitrust.org/access empowered to appoint a President, Directors, and other necessary officers, at such periods, and with such duties, as the said company shall see fit; and also to make rules and by-laws for the good government and management of the officers of the corporation: Provided, The said rules and by-laws shall not be repugnant to the Constitution and laws of this State and of the United States.

Sec. 7. That the said corporation shall have right and power to acquire, purchase, take and hold, in its corporate name, lands and real es- real estate. tate, and the same to demise, grant, sell, assign, exchange and convey, in fee simple or otherwise: *Provided*, The clear yearly income of the real estate so to be held shall not at any time exceed ten thousand dollars.

Lands and

A. D. 1869.

Sec. 8. That the said company is hereby authorized and empowered to make contracts and underwrite policies of insurance and indemnify against fire on buildings, goods, wares, merchandise, shipping and other property, lying, being, or deposited in this State, or elsewhere, as well as in the city of Charleston; and, also, to make contracts, and underwrite policies of assurance and indemnify upon marine risks, whether of vessels or of goods, merchandise or chattels, in whole or in part, foreign and domestic, whether upon the high seas, or in foreign ports, or in ports of the United States, or within any of the rivers, bays, creeks, canals or waters of this or any other State or country; and, also, to lend or advance money upon bottomry or respondentia.

Insurance.

SEC. 9. That in case of any loss whereby less than one-third of the capital stock of the said company shall be lost during the continuance to be made of this charter, no dividend shall thereafter be made until the deficiency shall be made up by the stockholders of the company or by the accumulation of the profits of its business.

Deficiences

Sec. 10. That if the capital of the company be reduced by losses to less than two-thirds of the original capital stock, the deficiency shall be made up by the stockholders in six months after such reduction shall occur, and in default thereof, the affairs of the corporation shall be

wound up, and they shall cease to do business.

SEC. 11. That if the affairs of the corporation are not wound up as Liabilities. directed in the preceding Section, and they proceed with business, then the President and Directors shall be, jointly and severally, liable to make good all engagements of the company entered into after the reduction of the capital, but nothing in this Section shall extend to any President or Directors who shall dissent to the proceedings of the company in these particulars, and who shall enter his protest in the minutes of the Board and publish the same in the daily gazettes of the city of Charleston.

SEC. 12. That the said corporation shall be invested with full power to enforce upon their members the due observance of all rules and by-laws for the good government and management of the affairs of the company, under such penalties as in and by the said rules and by-laws shall be limited and appointed; and to this end, if need be, shall and may institute and maintain in their corporate name, against any one or more of their members, all necessary suits, actions and pleas, either at law or equity, for the recovery of any sum or sums of money to the use of the said corporation, in as ample a manner as such suits might be maintained against persons not members of the corporation.

Powers.

Sec. 13. That in all elections and other corporate acts done by the stockholders of the said company every stockholder shall be entitled to

Voters.

one vote for each share owned by him or her, or standing in his or her name: Provided, That no stockholder shall be entitled to more than forty votes.

When to commence business.

Sec. 14. That one-fourth of the capital of the company shall be paid in, and satisfactory proof thereof be furnished to the Comptroller-General, before the said company shall be authorized to commence business; and the residue of the capital shall be paid in at such times and in such manner as the company may appoint: Provided, The whole shall be paid within one year after they shall have commenced business, and evidence of the same furnished the Comptroller-General.

Examina-

Sec. 15. That the books of the company shall be examined, from time tion of books. to time, by such person or persons as the General Assembly may for that purpose appoint; and the persons so appointed shall have full power to compel the attendance of witnesses and the production of books and papers, and to inquire into the management of the company. In case of abuse or violation of their charter, the said company may be proceeded against by scire facias in the Court of Common Pleas and General Sessions in any of the Circuits of this State, and upon conviction shall be liable to have their charter annulled by the judgment of the Court.

Investment of capital.

Sec. 16. That at least one-half of the capital of said company shall be permanently invested in stock of this State, or of the city of Charleston, or of the United States, or in good stocks of incorporated companies within this State, or in bonds secured by first mortgage of real estate, worth not less than forty per cent. beyond the amount invested within this State; and the company may transfer and sell such stock, or any part thereof, or dispose of or collect the said bonds for the purpose of reinvestment, whenever a due regard to the safety of its funds may require: Provided, however, That the said company shall not deal or trade in buying and selling any goods, wares, merchandise, commodities or stocks whatsoever.

Dividends.

SEC. 17. That no dividend exceeding twelve per cent. shall be declared upon the capital of the company. Any excess of profits above said per centage shall be carried to a surplus fund to meet losses and equalize dividends. In case, however, the profits fall below the per centage above specified, the dividends may be increased to that rate from the surplus The interest upon the investment of said surplus fund may, however, be once in five years added to the dividend and distributed among the stockholders.

Installments.

Sec. 18. The Board of Directors are hereby empowered to call in the remaining instalments on the shares of the capital stock in such sums and at such times as they may deem advisable: Provided, That two weeks' notice be given of each call. And the said installments shall be payable in the same medium as hereinbefore provided as to the first installment of five dollars.

SEC. 19. That this Act shall be deemed a public Act, and the charter hereby granted shall continue and be in force for twenty years.

Approved February 26, 1869.

AN ACT TO REGULATE THE PRACTICE OF MEDICINE IN THIS STATE,

Section 1. Be it enacted by the Senate and House of Representatives

Qualifica-

Penalties.

considered to have complied with the provisions of this Act.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That it shall be unlawful for any person within the limits of this State, who has not attended two full courses of instruction and graduated at some school of medicine, either in the United States or some foreign country, or who cannot produce a certificate of qualification from some State medical society, and is not a person of good moral character, to practice medicine, or prescribe medicine or medicines, for reward or compensation, for any sick person within this State: Provided, That in all cases when any person has been continuously engaged in the practice of medicine for a period of ten years or more, and can produce a certificate to that effect, either from some physician of good standing or from three citizens, one of whom shall be qualified to administer an oath according to the laws of the State, he shall be

SEC. 2. Any person living in this State, or any person coming into this State, who shall practice medicine in any of its departments, or perform, or attempt to perform, any surgical operations, upon any person within the limits of said State, in violation of Section 1 of this Act, shall, upon conviction thereof, be fined not less than fifty nor more than one hundred dollars for such offence, and, upon conviction for a second violation of this Act, shall, in addition to the above fines, be imprisoned in the County jail of the County in which said offence shall have been committed for the term of ninety days. And in no case wherein this Act shall have been violated shall any person so violating receive a compensation for services

construed to apply to any person practicing dentistry, or females practicing midwifery.

Sec. 3. All Acts or parts of Acts inconsistent with the above are hereby repealed.

rendered: Provided, That nothing herein contained shall in any way be

Approved February 26, 1869.

AN ACT TO RENEW THE CHARTER OF THE FERRY ACROSS THE SA-VANNAH RIVER KNOWN AS THE STONEY BLUFF FERRY.

No. 118.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the ferry over the Savannah River, in the Rechartered. County of Barnwell, known as the Stoney Bluff Ferry, be, and the same is hereby, re-established, rechartered and vested in Susan G. Brown, her heirs and assigns, for the term of ten years, who shall be allowed the same rates of toll as are now authorized by law: Provided, That the rates of toll of said ferry shall be subject to revision at the pleasure of the General Assembly.

Approved February 26, 1869.

AN ACT TO INCORPORATE THE AMATEUR LITERARY AND FRATERNAL No. 119. Association, of Charleston.

Whereas A. J. Ransier, A. A. Aspinwall, J. N. Gregg, J. J. Canni- Corporators.

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ville, E. L. Boysdon and B. A. Bosemon have prayed that the Amateur Literary and Fraternal Association, of Charleston, may be incorporated; therefore.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, all those persons who now are, or who hereafter may become, members of the said Association, shall be, and the same are hereby, incorporated, and are hereby declared to be a body corporate, in deed and in law, by the name and style of the Amateur Literary and Fraternal Association, of Charleston, and by the said name shall have perpetual succession of officers and members, and a common seal, with power to change, alter and make new the same as often as the said corporation shall judge expedient.

Title.

Privileges.

SEC. 2. That the said corporation shall be capable in law to purchase, have, hold, receive, enjoy, possess, and retain to itself, in perpetuity or for any term of years, any lands, tenements, or hereditaments, or other property, of what nature soever, not exceeding the sum of fifty thousand dollars, or to sell or alien the same, as the said corporation shall think fit, and by its said name to sue and be sued, implead and be impleaded, in any Court of Law or Equity in this State; and to make such rules and by-laws, not repugnant to the laws of the land, as for the order, good government and management thereof, may be thought necessary and expedient.

SEC. 3. This Act shall be deemed a public Act, and continue in force for the term of fourteen years, and until the sitting of the next General

Assembly thereafter.

Approved February 26, 1869.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ORGANIZE THE No. 120. CIRCUIT COURTS."

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Amendment, bly, and by the authority of the same, That paragraph 3 of Section 3 of the Act entitled "An Act to organize the Circuit Courts," passed the fifteenth day of August, A. D. 1868, be amended so as to read as follows:

Court of The Court of General Sessions at Walterboro, for the County of Col-Sessions. leton, on the third Monday after the fourth Monday in February, June Common and October; and the Court of Common Pleas at Walterboro, for the Pleas. County of Colleton, on the Wednesday after the third Monday after the

fourth Monday of February, June and October.

Writs returnable.

Sec. 2. All processes, writs and recognizances of every kind issued (or which, before the ratification of this Act, shall have been issued), and made returnable to the Court of General Sessions at Walterboro, for the County of Colleton, on the first Monday after the fourth Monday in February, June and October; and to the Court of Common Pleas at Walterboro, for the County of Colleton, on the Wednesday after the fourth Monday in February, June and October, shall be returnable to the terms of said Courts as herein established the same as if issued or taken in reference thereto.

Approved February 26, 1869.

AN ACT TO INCORPORATE THE COLUMBIA BUILDING AND LOAN AS-SOCIATION.

A. D. 1869. No. 121.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That John Fisher, E. H. Heinitsh, R. L. Bryan, J. J. McCarter, W. B. Stanley, J. P. Thomas and W. K. Bachman, together with other persons who now are, or hereafter may be, associated with them, be, and they are hereby, declared a body politic and corporate, for the purpose of making loans of money, secured by mortgage of real estate or personal property, to their members and stockholders, by the name and style of "The Columbia Building and Loan Association," the capital stock of which shall consist of twelve hundred shares, to be paid in by successive monthly installments of one dollar on each share, so long as the corporation shall continue, the said shares to be held, transferred, assigned and pledged, and the holders thereof to be subject to such fines and forfeitures for defaults in their payments, according to such regulations as may be prescribed by the by-laws of said corporation.

Incorpora-

Capital.

Sec. 2. That the said corporation shall have power and authority to make any such rules and by-laws for its government as are not repugnant to the Constitution and laws of the land; shall have such number and succession of members and officers as shall be ordained and chosen according to the said rules and by-laws made or to be made by them; shall have and keep a common seal, and may alter the same at will; may sue and be sued, plead and be impleaded, in any Court of law or equity in this State, and shall have and enjoy all and every right and privilege incident and belonging to corporate bodies, according to the laws of the

Privileges.

Sec. 3. That the funds of said corporation shall be loaned and advanced to the members and stockholders, upon the security of real or loaned. personal estate, in such mode, on such terms, and under such conditions, and subject to such regulations, as may from time to time be prescribed by the rules and by-laws of said corporation; and it shall be lawful for the said corporation to hold such lands, tenements, hereditaments and personal property as are now or shall hereafter be mortgaged or conveyed to them, in good faith, by way of security upon its loans and advances; and may purchase at sales thereof, made according to law, upon judgments or decrees at law or in equity for the recovery of their debts; and to sell, alien or otherwise dispose of the same, as they, from time to time, may deem expedient.

Funds to be

Sec. 4. That whenever it shall occur that the funds of the said corporation shall remain unproductive and uncalled for for the space of two months, the corporation shall have power to loan whatever amount may be thus on hand to others than stockholders and members, for such time and at such rates of interest as may be established by virtue of such rules and by-laws as may be made by said corporation.

Division of

Sec. 5. That whenever the funds of the said corporation shall have accumulated to such an amount that, upon a fair and just division thereof, funds. each stockholder and member shall have received, or be entitled to receive, the sum of two hundred dollars, or property of that value, for each and every share of stock by him or her so held, and such distribution and

division of the funds shall have been so made, then this corporation shall cease and determine. This Act shall be taken and deemed a public Act, and that the same may be given in evidence without specially pleading

Approved March 1, 1869.

No. 122. AN. ACT TO CONFIRM AND DECLARE VALID THE RECENT ELECTION OF MAYOR AND ALDERMEN OF THE CITY OF CHARLESTON.

Election.

Whereas an election for Mayor and Aldermen of the city of Charleston was held in said city on the tenth day of November, A. D. 1868, under the provisions of an Act entitled "An Act to provide for the election of the officers of the incorporated cities and towns in the State of South Carolina," ratified the twenty-fifth day of September, A. D. 1868; and whereas certain irregularities are alleged to have occurred in the conduct of said election; and whereas the returns of the Managers of said election, together with the ballots, have been examined, and the case investigated by the Acting Board of Aldermen, who have declared as follows: That Gilbert Pillsbury received the largest number of votes for Mayor; that J. D. Geddings and James F. Green received the largest number of votes for Aldermen of Ward No. 1; and William McKinlay and E. W. M. Mackey the largest number of votes for Aldermen of Ward No. 2; and Robert Howard, David Barrow and T. J. Mackey the largest number of votes for Aldermen of Ward No. 3; and L. T. Potter, Richard Holloway, G. J. Cunningham, Charles Voight and W. R. H. Hampton the largest number of votes for Aldermen of Ward No. 4; and L. F. Wall and Philip Thorn, the largest number of votes for Aldermen of Ward No. 5; and M. H. Collins and Malcolm Brown, the largest number of votes for Aldermen of Ward No. 6; and E. P. Wall the largest number of votes for Alderman of Ward No. 7; and T. Small the largest number of votes for Alderman of Ward No. 8; therefore, Section 1. Be it enacted by the Senate and House of Representatives

of the State of South Carolina, now met and sitting in General Assem-Confirmed. bly, and by the authority of the same, That the election held in the city of Charleston on the tenth day of November, A. D. 1868, for the several offices of Mayor and Aldermen of said city, the result of which has been declared by the Acting Board of Aldermen of said city, be, and the same is hereby, confirmed and declared as valid to all intents and purposes as if the same had been conducted in strict accordance with the technicalities and provisions of existing laws.

Incumbents to vacate.

Sec. 2. That immediately after the passage of this Act it shall be the duty of the Acting Mayor and Aldermen of the city of Charleston, on demand, to turn over all the property, books and papers pertaining to their several respective offices, to the persons declared by them to have received, on the tenth day of November, A. D. 1868, the largest number of votes for the several offices of Mayor and Aldermen of said city, and to vacate and surrender to said persons their several and respective offices.

Penalty.

Sec. 3. That for each and every days' detention or holding of the office of Mayor or Aldermen of the city of Charleston, contrary to the provi-

Previous

sions of this Act, the person or persons so offending shall be subject to a penalty of fifty dollars, the said penalty to be recovered in an action of debt by the person or persons aggrieved and kept out of office thereby.

SEC. 4. That any laws continuing in office persons elected or appointed to office previous to, during or under the late Provisional Government of laws repeal-South Carolina, or under or by virtue of any military orders, shall be held not to apply to, or continue in office, the present Acting Mayor and Aldermen of the city of Charleston, but, as to them, said laws shall be held to be null and void.

SEC. 5. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

Approved March 1, 1869.

AN ACT to enable the Savannah and Charleston Railroad No. 123. COMPANY TO COMPLETE THEIR ROAD.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Savannah and Charleston Railroad Company is authorized and empowered to borrow and raise to borrow. the sum of not more than five hundred thousand dollars, to be used in extending and rebuilding their road under the provisions of their

Authori t y

SEC. 2. That for this purpose the said company is hereby authorized and empowered to issue bonds to the amount of not more than five hundred thousand dollars, payable twenty years after the date thereof, with coupons attached for interest at the rate of seven per cent. per annum

Bonds.

payable semi-annually.

Funding.

SEC. 3. That the said company is hereby further authorized and required to fund and redeem the coupons for interest of the bonds of the Charleston and Savannah-Railroad Company, guaranteed by the State, now past due, and that may fall due on or before the first day of September, 1869, by issuing therefor an equal amount of their bonds, with coupons attached for interest, payable semi-annually, at the rate of seven per cent. per annum, and the principal to become due in twenty years after the date thereof. And the payment of the said bonds, so to be issued in substitution for interest coupons, shall be guaranteed by the State in the same manner, and as fully as the said original bonds of the Charleston and Savannah Railroad Company are now guaranteed; subject, however, to the provisions of Section 6 of this Act.

Guarantee.

SEC. 4. The bonds hereinbefore authorized for rebuilding said road Nosal shall be used exclusively for the building thereof, and the outfit of the be paid. No salary shall be paid to any officer of the said road out of the funds so raised by this Act.

No salary to

SEC. 5. The said railroad company shall deposit the interest on all their aforesaid bonds, as it becomes due, with the Financial Agent of the be deposited. State of South Carolina, in the city of New York, and shall notify the creditors of the same by public advertisement in one newspaper in New York, one in Charleston and one in Savannah; and if said company shall fail to pay the interest on its debt within six months after it shall have

Interest to

Penalty.

A. D. 1869. become due, or fail to pay, or provide for the payment of the principal of its debt within six months after it shall have become due, it shall be the duty of the Comptroller-General of the State, and he shall have the power, to take immediate possession of said road, with all its appurtenances, and lease the same to responsible parties, who shall have control thereof until the General Assembly shall by law provide for the settlement of the affairs of said company in the interest of all its creditors. The Governor

to represent the State in the direction of said company.

Lien of the State.

SEC. 6. That the present lien of the State of South Carolina on said road shall, upon the issue of the bonds provided for in and by the first Section of this Act, be postponed and become a second lien, which said second lien shall extend over and cover the whole road, its outfit and real estate, as fully as is already provided for by law. The said road shall be completed by the first day of January, 1870.

of the State is hereby authorized and empowered to appoint two Directors

Charter to

SEC. 7. This Act shall not be of force until said Savannah and Charlesbe amended, ton Railroad Company consent to the amendment of their charter, so that the property of said corporation shall be subject to taxation in conformity with Section 2 of Article XII of the Constitution, and said consent be certified, under the seal of said company, to the Comptroller-General and Secretary of State. Upon the filing of said consent, the said charter shall be deemed and held to be modified in conformity with said Section of the Constitution: Provided, That no tax shall be assessed or levied upon said road until the same shall have been completed.

> In the Senate House, the second day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

CHAS. W. MONTGOMERY, President of the Senate pro tem. FRANKLIN J. MOSES, Jr., Speaker House of Representatives.

Indorsed by the Governor: "Received March 2, 1869."

OFFICE SECRETARY OF STATE, COLUMBIA, S. C., March 6, 1869.

The foregoing Act having been presented to the Governor of this State for his approval, and not having been returned by him to the branch of the General Assembly in which it originated within the time prescribed by the Constitution, has become a law without his approval.

F. L. CARDOZO, Secretary of State of South Carolina.

AN ACT TO CHANGE THE LOCATION OF THE COUNTY SEAT OF BARN-WELL COUNTY FROM BARNWELL COURT HOUSE TO BLACKVILLE.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and Change of by the authority of the same, That it shall be the duty of the Governor to County seat. issue his proclamation announcing a change of the County seat of Barnwell County from Barnwell Court House to the town of Blackville, on the receipt of a certificate from the Secretary of State of the filing in his

office of the cession, by the town of Blackville, of a suitable site for a court house and jail; and the County Commissioners of Barnwell County shall, thereupon, be authorized to take all needful measures, at the expense of the County, to effect such removal.

A. D. 1869.

In the Senate House, the second day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

CHAS. W. MONTGOMERY, President of the Senate pro tem. FRANKLIN J. MOSES, Jr., Speaker House of Representatives.

Indorsed by the Governor: "Received March 2, 1869."

OFFICE SECRETARY OF STATE, Columbia, S. C., March 6, 1869.

The foregoing Act having been presented to the Governor of this State for his approval, and not having been returned to the branch of the General Assembly in which it originated within the time prescribed by the Constitution, has become a law without his approval.

> F. L. CARDOZO, Secretary of State of South Carolina.

AN ACT FURTHER TO AMEND THE ACTS INCORPORATING THE UNI-No. 125. VERSITY OF SOUTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The Board of Trustees of the Uni- Amendment. versity of South Carolina shall hereafter consist of seven members, who shall be elected on joint ballot by the General Assembly, and shall hold their offices for the term of four years and until their successors shall be appointed, no one of whom, during his continuance in office, shall be in any other manner connected with the University. Neither the said Board of Trustees, nor the Faculty of the University, shall make any distinction in the admission of students or the management of the University on account of race, color or creed.

Sec. 2. The Board of Trustees, when elected, shall meet at Columbia at such time and place as the Governor shall, by summons, direct, and the Governor of the State shall be the President of the Board of Trustees by virtue of his office; in his absence the Board shall elect one of their The stated meetings of the Board shall own number to act as President. be held at least once in three months; but the President of the Board shall have power to assemble it at any time in extra meeting, and it shall be his duty to do so whenever requested by the Faculty of the University; any five of the Board shall constitute a quorum for the transaction of business.

Meetings.

SEC. 3. The tuition fees to be paid by the students in the several Tuition fees. schools shall hereafter be as follows: For entrance into the school of law or medicine, fifty dollars, with the privilege of entering any of the other schools, upon the payment of fifteen dollars for each school; for entrance into three or more of the other schools, fifteen dollars for each school; for

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A. D. 1869. entrance into any two of the other schools (if a student shall enter but two), twenty dollars; and for entrance into any one of the other schools (if a student shall enter but one), twenty-five dollars. The tuition fees shall be paid into the treasury of the University in advance, and shall be

set apart and known as "the tuition fund."

Sec. 4. To each of the Professors shall be paid, from the Treasury of Salaries. the State, quarterly, an annual salary of two thousand dollars, and to the

demonstrator of anatomy an annual salary of one thousand dollars. There shall also be paid to each Professor, from "the tuition fund," as additional salary, the sum of five hundred dollars, which shall be paid at the expiration of the University term. If the tuition fund shall not be sufficient therefor, the Treasurer shall apportion the same among the Professors, and should there be, at the expiration of any University term, a surplus of "the tuition fund," it shall be passed by the Treasurer into

the University fund, to be applied, under the direction of the Trustees, to the general purposes of the University.

The Faculty. Sec. 5. The Trustees shall have authority to assign any Professor to additional duties in any other school or schools without additional salary.

All Professors shall be members of the Faculty of the University; and one of the members shall be chosen annually, by a vote of the Faculty,

to act as Chairman of the Faculty.

SEC. 6. When the first election of the Board of Trustees shall take Vacancies. place, under the provisions of this Act, the offices of those who now constitute the Board of Trustees shall cease and determine. All vacancies

in the Board of Trustees shall be filled by appointment of the Governor. Free stu-Sec. 7. There shall be admitted to the University one student annually

> from each County in the State, who shall be entitled to entrance into as many as three of the schools, not including either the school of law or medicine, without the payment of tuition fees. Such student shall be appointed by the Governor, on the nomination of the delegation in the General Assembly from the County in which the students shall respectively reside; the nomination to be made by the delegation in accordance with such regulations as the Governor may prescribe: Provided, That every student thus appointed shall show, upon examination before the Faculty, the degree of proficiency required of other students for admission into the University, and shall be otherwise admissible, accord-

Respecting schools.

dents.

SEC. 8. The Board of Trustees shall have the authority to establish, in connection with the State University, a preparatory school, under such rules and regulations as they may think best to adopt: Provided, That a course in the University shall not be made a condition of admission into said school: And provided, further, That said school shall at no time receive any pecuniary aid from the State.

SEC. 9. All Acts or parts of Acts inconsistent with the provisions of

this Act are hereby repealed.

ing to the regulations governing the University.

Approved March 3, 1869.

AN ACT TO REGULATE THE AGENCIES OF INSURANCE COMPANIES NOT INCORPORATED IN THE STATE OF SOUTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That it shall not be lawful, after the first day of April, one thousand eight hundred and sixty-nine, for any agent of any insurance company in the United States, or any foreign State, not incorporated by the laws of this State, to take risks or transact any business of insurance in this State, without first obtaining a license from the Comptroller-General, which license shall expire on the 31st day of March of each year.

Sec. 2. That before the Comptroller-General shall issue such license to any agent of any insurance company not incorporated in South Carolina, there shall be filed in his office a certified copy of the charter of the company from which the said agent or attorney has received his appointment, and also a certified copy of the vote or resolution of the Trustees or Directors of said company appointing him such agent, accompanied by a warrant of appointment under the official seal of the company, and of appoint signed by the President and Secretary. Such warrant of appointment shall continue valid and irrevocable until another agent or attorney has been substituted, so that at all times, while any liability remains outstanding, there shall be within the State an agent or attorney as aforesaid, and shall contain a consent expressed, authorizing process of law to be served on said agent or attorney for all liabilities of every nature incurred in this State by said company, and that such service, made on such agent or attorney in the manner required by the laws of this State, shall be deemed legal and binding on the company or companies in all cases whatsoever, and that every judgment so recovered shall be conclusive evidence of the indebtedness of the company; and in addition to said warrant of appointment, there shall be filed and published a statement, made under oath of its President or Secretary, showing its assets and liabilities, and distinctly showing the amount of capital stock, and how the same has been paid, and of what the assets of the company consist, the amount of losses due and unpaid, and all other claims against the company, or other indebtedness, whether due or not due at the time of the filing of the statement above, and shall further show:

1st. That said companies have fulfilled the provisions of their respective charters, and of the extensions and amendments thereto, in every particular, and whether there has been any change of charters since last statement.

2d. The amount of policies outstanding, as near as can be ascertained. 3d. The character of the risks, and the rule governing companies and their agents in taking the same, both as to locality and amount.

4th. The particular character of the assets, specifying the amount of cash and public, bank, manufacturing or other stocks and bonds, or other securities, held by the companies, with the evidence that they are held by them, the rule of investment in real estate, securities, and the general localities of real estate secured to companies.

5th. The amount received from premiums, and whether sufficient to pay

6th. Whether there have been any changes in agencies during the preceding year.

SEC. 3. That every agent or attorney obtaining such license shall also Publication. cause such license to be published in some newspaper, to be designated by the Comptroller-General, having circulation in the County in which he

A. D. 1869. License.

Filing of charter.

Certifica t e

Particulars.

The company shall also furnish to the Comptroller-General, resides. through their agent, an annual statement of the affairs of the company, as provided in the second Section of this Act, and it shall be the duty of the agent or agents to publish the same.

Insolvency.

SEC. 4. That if the Comptroller-General shall become satisfied that any company is insolvent or unsafe, it shall be his duty to refuse license to its agent or agents, and to withdraw any license that has been already

Penalty.

Sec. 5. That any person who shall deliver any policy of insurance, or collect any premium of insurance, or transact any business of insurance in this State, for any company in the United States, or foreign State, not incorporated by the laws of this State, without having first obtained license as by this Act required, or after his license has been withdrawn, or who shall in any way violate the provisions of this Act, shall be fined for every such offence not less than one hundred dollars, nor more than five hundred dollars, at the discretion of the Judge: Provided, further, That nothing contained in this Section shall release any such company or companies upon any policy issued or delivered by it or them.

Fee.

Sec. 6. That for every license issued by the Comptroller-General under this Act, he shall be paid by the company taking out such license the sum of five dollars for his own use.

Sec. 7. That all Acts or parts of Acts inconsistent with this Act are hereby repealed.

Approved March 6, 1869.

No. 127. AN ACT TO RATIFY, CONFIRM AND AMEND THE CHARTER OF THE CHARLESTON, SOUTH CAROLINA, MINING AND MANUFACTURING COM-PANY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Amendment and by the authority of the same, The charter taken out by the Charleston, South Carolina, Mining and Manufacturing Company, under the provisions of an Act entitled "An Act to authorize and regulate the creation of private corporations within this State," approved December 20th, Anno Domini eighteen hundred and sixty-six, be, and the same is hereby, amended as follows: The capital stock shall consist of six hundred thousand dollars, and shall be divided into six thousand shares of one hundred dollars each; and the President and Directors of said company may issue stock to the full amount of the assessed value thereof, said assessment to be taken from the books of the Assessors of the County in which said property is situated, and the stock so issued shall be declared and taken to be full stock, and not liable to any further calls.

Increase of capital.

SEC. 2. The said company shall have the right to increase its capital to one million of dollars by a vote of the stockholders thereof, representing two-thirds of the capital stock, at any meeting of the stockholders called in the manner prescribed by the by-laws.

Liability.

SEC. 3. Every stockholder of said company shall be, jointly, severally and individually, liable for all debts that may be contracted for materials

furnished, or that may be due and owing to all their laborers, servants and apprentices, for services performed for said corporation: Provided, That no person holding stock in the said company as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company, but the person pledging such stock shall be considered as holding the same, and shall be liable as stockholder accordingly: And provided, further, That no stockholder shall be personally liable for more than the par value of his stock, or for the payment of any debt contracted by the said company which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against said company within one year after the debt shall become due. And no suit shall be brought against any stockholder who shall cease to be a stockholder in said company for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in said company, nor until an execution against the company shall have been returned unsatisfied in whole or in part.

SEC. 4. The said company is authorized to locate its principal office or place for transacting its business at Charleston, Baltimore, Washington, New York or Philadelphia, and to hold its corporate meetings, and carry on any part of its business, at either of the said cities, but its principal office or places of business shall not be changed but by a vote of the stockholders representing two-thirds of the stock, at a meeting of the stock-

holders regularly called.

SEC. 5. In ratification and confirmation of the powers and privileges heretofore granted, be it further enacted, That the said company shall by-laws. have such number of officers as shall be ordained and chosen by the rules and by-laws to be made for their government and direction, and shall have power and authority to make all rules and by-laws not repugnant to the Constitution and laws of this State; to regulate the issue of scrip and transfer of shares; to have and to keep a common seal, and the same to alter at will; to sue and be sued, plead and be impleaded, in any Court of Law or Equity; to purchase, take and hold, sell and alien, in fee simple or for any less estate, lands, tenements, hereditaments, goods, chattels, rights and credits which may be connected with, or in any manner conducive to, the purpose for which said company is established; to dig and mine for earths, marls, rocks and materials; to manufacture the same, and such other materials as they may purchase, into chemicals, acids and fertilizers; to carry on trade therein, and to cultivate such lands as are now owned or may be purchased by the company for the purposes aforesaid.

SEC. 6. That this Act shall be deemed and taken to be a public Act,

and shall be and continue of force for the term of thirty years.

Approved March 8, 1869.

AN ACT to provide for the revision and consolidation of No. 128. THE STATUTE LAWS OF THE STATE OF SOUTH CAROLINA.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly,

A. D. 1869.

Officers and

Powers.

sioners.

and by the authority of the same, In pursuance of Section 3 of Article V of the Constitution of this State, this General Assembly will proceed Commiss- to elect three Commissioners, whose duty it shall be to revise, simplify, digest, arrange and consolidate, under proper heads, all the statute laws of the State, general and permanent in their nature, which shall be in force at the time when they make their final report.

Duties.

Sec. 2. In performing this duty the Commissioners shall bring together all statutes and parts of statutes which, from similarity of subject, ought to be brought together, omitting redundant and obsolete enactments, and making such alterations as may be necessary to reconcile the contradictions, supply the omissions and amend the imperfections of the original text; and they shall arrange the laws under titles, chapters, sections, or other suitable divisions and sub-divisions, and with head notes briefly expressive of the matter contained in such divisions; also, with side notes, so drawn as to point to the contents of the text, and with references to the original text from which each section is compiled, and to decisions of the Courts of the State expounding or explaining the same, as they may deem expedient. They shall also provide, by a temporary index, or other suitable means, for an easy reference to every portion of their report.

To report to General Assembly.

Sec. 3. When the Commissioners have completed the revision and consolidation of the statutes, as aforesaid, they shall cause a copy of the same, in print, to be submitted to the General Assembly, that the statutes so revised and consolidated may be re-enacted, if the General Assembly shall so determine; and at the same time they shall suggest to the General Assembly such contradictions, omissions and imperfections as may appear in the original text, with the mode in which they have reconciled, supplied and amended the same; and they may also designate such statutes or parts of statutes as in their judgment ought to be repealed, with their reasons for such repeal.

Printing.

Sec. 4. The Commissioners shall be authorized to cause their work to be printed, in parts, as fast as it may be ready for the press, and to dis-Distributio n. tribute copies of the same to members of the General Assembly, and to such other persons, in limited numbers, as they may see fit, for the purpose of obtaining their suggestions; and they shall report, from time to time, to the General Assembly, their progress and doings.

Work to be closed.

Sec. 5. The statutes so revised and consolidated shall be reported to the General Assembly as soon as practicable, and the whole work closed without unnecessary delay.

Mode of pleading.

Sec. 6. That justice may be administered in a uniform mode of pleading, without distinction between law and equity, the Commissioners shall revise, simplify and abridge the rules, practice, pleadings and forms of the Courts now in use in the State, and report a code of procedure for the adoption of the General Assembly at its next session.

Compensation.

Sec. 7. The Commissioners shall receive, as compensation for their services, at the rate of three thousand five hundred dollars per annum; and they shall also receive, for reasonable expenses of clerical services, books, printing, stationery, and other necessary and incidental matters, not exceeding five thousand dollars annually, said expenditures to be accounted for to the Comptroller-General on proper vouchers.

Approved March 9, 1869.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE MANNER OF KEEPING AND DISBURSING FUNDS BY CERTAIN OF-FICERS."

A. D. 1869. No. 129.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section (6th) sixth of an Act entitled "An Act to regulate the manner of keeping and disbursing funds by certain officers" be, and the same is hereby, amended, by striking out the word "September" wherever it occurs in said Section, and placing in lieu thereof the word "October."

Amendment.

Approved March 9, 1869.

AN ACT TO PRESCRIBE CERTAIN RULES TO BE OBSERVED IN THE GOVERNMENT OF FERRIES AND BRIDGES PRIVILEGED TO CHARGE Tolls.

No. 130.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That it shall be the duty of the managers and attendants of all public ferries and bridges, having the privilege to be placardby law to charge toll for the passage of persons, animals and vehicles or ed. other goods, to cause the rates chargeable for such passage to be posted in legible letters or characters in some conspicuous place, stating the legal amount to be paid, so as to be read for information without inconvenience, at the approach to such ferry or bridge.

Sec. 2. Any neglect of the duties prescribed in the foregoing Section, or any toll exacted at higher rates than may be allowed by law, shall, upon conviction of the parties so neglecting before any Justice of the Peace or Magistrate, be punished with a fine of not less than ten nor more than fifty dollars, which fines shall be added to the funds for the maintenance of common schools in the County where such ferry or bridge may

Penalty.

be situated. Approved March 9, 1869.

AN ACT TO RENEW THE CHARTER OF THE CHARLESTON BIBLE SO-No. 131. CIETY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the charter originally granted on the twentieth day of December, Anno Domini 1826, to the Charleston Bible Society be, and the same is hereby, revived and renewed, and that all donations, grants, devises and legacies heretofore made to the said Charleston Bible Society are hereby confirmed and established: Provided, That the value shall not exceed the amount limited by said charter.

Renewal of

SEC. 2. This Act shall be a public Act, and shall continue in force for the term of fourteen years.

Approved March 9, 1869.

27

A. D. 1869. No. 132. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH QUARANTINE AT GEORGETOWN, CHARLESTON AND HILTON HEAD."

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Amendment, and by the authority of the same, That an Act entitled "An Act to establish quarantine at Georgetown, Charleston and Hilton Head" be so amended as that wherever the words "Health Officer" occur in said Act they shall be understood to mean the Health Officer or his deputies: Provided, That said deputies shall in all cases be graduates of a regular medical school.

Additional amendment.

Sec. 2. That the aforesaid Act be further amended as follows: All vessels arriving on and after the first day of November, having had during the voyage a case of small-pox, cholera, or typhus, or infectious, or contagious disease, and every vessel from a foreign port having passengers, and not hereinbefore declared subject to quarantine, shall, on her arrival, be anchored at quarantine ground, and be visited by the Health Officer. or his deputies, but shall not be detained beyond the time requisite for due examination, unless she shall have had on board during the voyage some case of small-pox, typhus, or other infectious or contagious disease, in which case she shall be subject to such quarantine as the Health Officer or his deputies shall prescribe. And it shall be the duty of the Health Officer or his deputies, whenever necessary for the public health, to cause the persons on board of any vessel to be vaccinated.

Approved March 9, 1869.

AN ACT TO INCORPORATE THE CARMEL CHURCH, IN PICKENS No. 133. COUNTY.

> Whereas B. F. Glenn, J. Monroe Smith, William H. Ford and B. M. Mulliken, as Trustees of the Carmel Church, in Pickens County, have

prayed to be incorporated; therefore,

Incorporation.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passage of this Act all those persons who now are, or who hereafter shall or may become, members of the said society, shall be, and the same are hereby, incorporated, and are hereby declared to be a body corporate in deed and in law, by the name and style of the Carmel Church, of Pickens County, for the advancement of Christianity in the State of South Carolina; and, by the said name, shall have perpetual succession of officers and members, and a common seal, with power to change, alter and make new the same as often as the said corporation shall judge expedient.

Privileges.

SEC. 2. That the said corporation shall be capable, in law, to purchase, have, hold, receive, enjoy, possess and retain to itself, in perpetuity, or for any term of years, any lands, tenements or hereditaments, or other property, of what nature soever, not exceeding the sum of fifty thousand dollars, or to sell or alien the same, as the said corporation shall think fit; and by its said name to sue and be sued, implead and be impleaded, in any Court of law or equity in this State; and to make such rules and by-

laws, not repugnant to the laws of the land, as, for the order, good government and management thereof, may be thought necessary and expedient.

SEC. 3. That this Act be deemed a public Act, and, as such, shall be judicially noticed in all the Courts of this State.

Approved March 9, 1869.

AN ACT TO ESTABLISH THE LIEN OF MAGISTRATES' EXECUTIONS.

No. 134.

A. D. 1869.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That executions issued by Magistrates liens. upon causes of action tried and adjudged by them, shall be entered by the Sheriff, upon the request of the plaintiff, in the execution book now kept by law in his office, except in cases where the Sheriff is a party to the suit, or interested in the event, in which cases they may be entered in the Coroner's office; and such executions so entered shall, from the date of entry, have the same lien upon property that is given by law to executions issued by the Court of Common Pleas: Provided, That nothing herein contained shall apply to executions for an amount less than twenty dollars, exclusive of costs.

To serve as

SEC. 2. Levies and sales under such executions shall be made only by the Sheriff or his lawful deputy, (or the Coroner, as the case may be,) under the same forms and rules as now govern Sheriffs' sales.

Sheriff.

SEC. 3. That the fees of the Sheriff for services under this Act shall be the

Fees.

same as those now allowed by law.

SEC. 4. That all Acts and parts of Acts in relation to Magistrates' executions in conflict with this Act be, and the same are hereby, repealed.

Approved March 9, 1869.

AN ACT TO ESTABLISH A PUBLIC FERRY IN YORK COUNTY.

No. 135.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the ferry opened by B. F. tablished. Boyd, across the Catawba River, be, and the same is hereby, declared to be a public ferry, and vested in the said B. F. Boyd, with the following rates of toll, for the term of fourteen years: For each man and horse, ten cents; for each led horse, five cents; for each foot passenger, five cents; for each wagon drawn by four horses, seventy-five cents; for each wagon and carriage drawn by two horses, fifty cents; for each wagon drawn by one horse, twenty-five cents; for each gig or sulky, twenty-five cents; for each cart and horse, twenty-five cents; for each head of cattle, five cents; for each hog, sheep or goat, three cents; and for long or double ferriage, double the amount of the above rates: Provided, That children going to and returning from school, and voters going to and returning from the polls, on election day, shall be passed free of charge over such ferry.

Ferry es-

Rates.

Proviso.

Approved March 13, 1869.

A. D. 1869. No. 136.

AN ACT TO ENABLE THE BANKS OF THE STATE TO BENEW BUSINESS OR TO PLACE THEM IN LIQUIDATION.

Banks failing to forfeit rights.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all the banks incorporated by authority of this State, and which have, by said authority, issued bills of credit known as bank bills, and have failed to comply with said corporate privileges, by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said Act of incorporation in this particular, and shall so continue to violate said Act until the first day of December, 1869, shall forfeit all corporate rights and privileges, and are forbidden to transact any business as banking institutions: Provided. That the redemption of their bills in United States currency shall be deemed the fulfillment of their obligations to the holders of said bills. Sec. 2. That it shall be the duty of the Comptroller-General, immedi-

ately after the ratification of this Act, to furnish each of the said banks

of the State with a copy thereof, and they shall report thereon to the

Duties o f Comptroller-General.

> Comptroller-General, giving a full statement of all the property, and assets, and liabilities of the bank, and shall furnish a full statement of all their transactions every thirty days thereafter; and for every case of failure or neglect to so report, the officers of the bank shall forfeit and pay twenty-five dollars for each day so failing, to be collected by the Sheriff of the County on the order of the Comptroller-General, approved by the Governor, to be appropriated to the use of the State; and if any of the banks agree to redeem their bills, the Comptroller-General shall give notice of said agreement in one or more of the newspapers of this State, and shall notify the Judge of the Circuit in which such bank or banks may be situated of each and every bank failing to comply with the requirements of the first Section of this Act, whose duty it shall be to appoint a suitable person as receiver of each of the aforesaid banks, who shall, after having filed a bond, with good and sufficient security, to be approved by the said Judge, take charge of the property and assets of

Receiver.

Duties.

the bank. Sec. 3. That the said receiver shall furnish the Comptroller-General with a full statement of all the property and assets belonging to the said bank, immediately after receiving the same, and shall proceed to the final settlement of the accounts of the bank, in conformity to such rules as the Circuit Court may direct.

Banks may resume business.

Sec. 4. Any of the banks redeeming their bills in conformity with the provisions of the second Section of this Act, and are able to redeem the same, and have remaining in their possession assets of the market value of fifty thousand dollars, may resume business as a banking corporation, after satisfying the Governor and the Comptroller-General that they are possessed in fact of the said amount; and the Comptroller-General shall make known the same by public notice in one or more newspapers of the

Sec. 5. The banks resuming business in accordance with the provisions

To report to General.

Comptroller- of this Act shall report to the Comptroller-General, as now provided by law, and their charters shall be deemed as redeemed for the amount so Limit of advertised by the Comptroller-General: Provided, That no bank shall be so rechartered with a capital of less than fifty thousand nor more than

capital.

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one million dollars: Provided, further, That all banks rechartered and recommencing business under this Act shall be subject to taxation.

A. D. 1869.

SEC. 6. That all Acts or parts of Acts inconsistent with this Act be, and the same are hereby, repealed.

Approved March 13, 1869.

AN ACT TO INCORPORATE CERTAIN SOCIETIES IN THE CITY OF No. 137. CHARLESTON.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Cupid Voitt, John L. Fen- Corporators. nick, John B. Wright, Samuel B. Garrett, Thomas Miller and others, who now are, or may hereafter be, members and officers of the Young Men's Charitable Society, of Charleston; and that Hamlet Muly, Jonas Bird, Peter Mazyck, Joseph M. Duncan, George Watkins, William Laurence and others, who now are, or may hereafter be, members and officers of the Ephrath Burial Ground and Charitable Society, of Charleston, and their successors, officers and members, be, and they are hereby, declared to be bodies politic and corporate, by the name and style of the Young Men's Charitable Society, and the Ephrath Burial Ground and Charitable Society; and that the said corporations shall, by their corporate names, sue, be sued, implead and be impleaded in the Courts of this State; and shall be able and empowered, in law, to purchase, have, hold, enjoy and possess any goods, chattels, lands, tenements or real estate of what kind or nature soever; and the same, or any part thereof, to sell, alien or convey, at their will and pleasure: Provided, however, That the property so to be held shall not exceed the annual value of five thousand dollars; and the said corporation shall have power to make a common seal, with power to change and alter the same as often as they shall deem necessary.

SEC. 2. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall continue in force for the term of fourteen years, and until the next meeting of the General Assembly thereafter.

Approved March 13, 1869.

AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO ALTER AND AMEND THE CHARTER OF THE KING'S MOUNTAIN RAILROAD COMPANY," PASSED DECEMBER 16, 1851.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act of the General Assembly Amendment. entitled "An Act to alter and amend the charter of the King's Mountain Railroad Company," passed December 16th, A. D. 1851, be, and the same is hereby, altered and amended, so that hereafter the number of Directors of the said railroad shall be five (5) instead of eight (8). A majority of them shall constitute a quorum for the transaction of business.

Privileges.

A. D. 1869. Sec. 2. That all Acts or parts of Acts inconsistent with this Act are hereby repealed.

Approved March 13, 1869.

AN ACT TO RENEW THE CHARTER OF A FERRY ACROSS THE CON-No. 139. GAREE RIVER.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Rechartered. authority of the same, That a ferry across the Congaree River, at the site of the old Columbia Ferry, be, and the same is hereby, rechartered and vested in J. Saunders Guignard and John G. Guignard, their heirs and assigns, for the term of fourteen years, and the said J. Saunders Guignard and John G. Guignard shall be allowed the same rates of toll as are now authorized by law: Provided, That voters going to and returning from the polls on election days, and children going to and returning from school, shall be passed free over said ferry.

Proviso.

In the Senate House the fifteenth day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

CHAS. W. MONTGOMERY, President of the Senate pro tem. FRANKLIN J. MOSES, Jr., Speaker House of Representatives.

Indorsed by the Governor: "Received March 15, 1869."

Office Secretary of State, Columbia, S. C., March 19, 1869.

The foregoing Act having been presented to the Governor of this State for his approval, and not having been returned by him to the branch of the General Assembly in which it originated within the time prescribed by the Constitution, has become a law without his approval.

F. L. CARDOZO, Secretary of State of South Carolina.

No. 140. AN ACT to empower the Judges of the Circuit Court to GRANT RELIEF IN CASE OF ERRONEOUS JUDGMENTS OBTAINED DU-RING THE EXISTENCE OF THE PROVISIONAL GOVERNMENT OF SOUTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Motion to and by the authority of the same, That in case a judgment or decree has vacate. been, or hereafter shall be, rendered by a Court of Common Pleas or Equity, it shall be lawful for either party, plaintiff or defendant, to move, before the presiding Judge of the Circuit in which said judgment was obtained, to vacate or set aside said judgment, upon satisfactory proof being made to said Judge that said judgment is erroneous and ought to be set aside; and, upon such proof being made, the presiding Judge is hereby

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authorized to vacate and set aside said judgment, and to order a trial de novo: Provided, That, except as to causes arising under the Provisional Government of South Carolina, no motion shall be entertained for a new trial in any cause unless the motion be made within two years after the

A. D. 1869.

judgment rendered.

Sec. 2. That, upon service of notice of motion for the purpose hereinbefore stated, and satisfactory security given for the payment of said ceedings. judgment in the event a new trial shall not be granted, the said security to be approved by the Clerk of the Court for the County in which such judgment was obtained, the presiding Judge is hereby empowered to order a stay of all proceedings until the hearing and decision of said motion.

Stay of pro-

Approved March 16, 1869.

AN ACT TO AUTHORIZE SYLVANUS MAYO TO BUILD A DOCK AND No. 141. COLLECT WHARFAGE IN THE TOWN OF BEAUFORT.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Sylvanus Mayo be, and he is hereby, authorized to build a wharf to deep water, in front of the property owned by him, in the town of Beaufort, to collect wharfage on the same, and to use, sell or lease the said wharf for his own use and benefit, subject to any laws now existing, or hereafter to be made, in relation to such property.

Authority.

Approved March 16, 1869.

AN ACT TO PROVIDE FOR THE COLLECTION OF WHARFAGE AT HIL-No. 142. TON HEAD.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Sylvester Russell be allowed to collect. collect wharfage at his wharf at Hilton Head, in accordance with the laws and regulations concerning the collection of wharfage.

Allowed to

Approved March 16, 1869.

AN ACT TO ORGANIZE AND GOVERN THE MILITIA OF THE STATE OF No. 143. SOUTH CAROLINA.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all able-bodied male citizens between the ages of eighteen and forty-five years, residing in this State, subject. and not exempted by the laws of the United States, shall be subject to military duty, excepting-

1st. All persons in the army or navy or volunteer forces of the United

2d. Regularly ordained or licensed ministers and preachers of the Gospel.

3d. The Lieutenant-Governor, members and officers of the General Assembly, the Secretary of State, Attorney-General, Comptroller-General, State Auditor, Commissioner of Bureau of Agricultural Statistics, Superintendent of Education, State Engineer and Surveyor, State Treasurer, and clerks and employees in their offices, judicial officers of the State, including Justices of the Peace, Sheriffs, Coroners, Constables, civil officers of the United States, ferrymen employed at any ferry on a post road, and millers.

4th. All persons entertaining conscientious scruples against bearing arms, practicing physicians, professors, teachers and students in col-

leges, academies and common schools.

5th. Persons regularly and honorably discharged from the army and navy of the United States, in consequence of the performance of military or naval duty, in pursuance of any law of this State, and all persons who now are or may hereafter be active members of regularly incorporated fire companies in this State.

6th. Commissioned officers who shall have served as such in the loyal militia of this State, or in any one of the United States, for the space of seven years; but no such officer shall be exempt unless by his resignation after such term of service, duly accepted, or in some other

lawful manner he shall have been honorably discharged.

7th. Idiots, lunatics, paupers, and persons convicted of infamous

crimes, shall not be subject to military duty.

Enrollment.

SEC. 2. That under the directions of the Commander-in-Chief all persons liable to military duty within this State who are not already members of the National Guard, as hereinafter provided, shall, immediately upon the passage of this Act, and from time to time thereafter, as the Commander-in-Chief shall deem necessary, but as often as once in every two years, be enrolled. Such enrollment shall distinctly specify the names and residences of the persons enrolled, and shall also divide the First class. same into two classes; the persons between the ages of eighteen and thirty years to constitute the first class, and the persons between the ages of thirty and forty-five years to constitute the second class. Four copies of Copies to be such enrollment shall be made by the officer making the same, one of which, after being corrected, shall be retained by him, another shall be filed in the office of the Town or City Clerk in which such company is

Second class.

tion.

enrolled, another shall be filed in the office of the Clerk of the Courts of Record in the County where such district is situated, and the fourth shall Compensa- be filed in the Adjutant-General's office. The persons making said enrollment shall be compensated at the rate of one dollar and fifty cents per day for every day necessarily spent in making and copying the same; the number of days not to exceed ten; and the amount of such compensation shall be paid by the Treasurer of the State, upon production of the certificates of the Clerk of the Courts of Record in the County, and of the Adjutant-General, that such rolls have been duly filed, on or before the first day of February in each year in which such enrollment shall be Extension. made: Provided, That the Commander-in-Chief may, if he deem it neces-

sary, extend the term of completing the first enrollment under this Act,

Penalties.

To be col-

not to exceed twenty days, and authorize payment for the same, as

hereinbefore specified and set forth.

Sec. 3. That all persons duly enrolled who shall neglect to attend the musters and drills provided for in this Act, except in cases of sickness, shall be subject to a fine of one dollar for each day so neglecting, which, if not paid to the County Treasurer on or before the fifteenth day of March next ensuing, shall be collected by the collector or receiver of taxes of the city or County in which the person so neglecting is enrolled; and the Board of County Commissioners, at their annual meetings, are authorized and directed to annex a list of the several delinquents, with lected. the fines set opposite their respective names, to the assessment rolls of the several towns and wards; and the warrants for the collection of the same shall direct the collector or receiver of taxes to collect the amount from every person appearing, by the said assessment roll, liable to pay the same in the same manner as other taxes are collected, the same to be paid to the County Treasurer. And when the name of any person, between the ages of eighteen and twenty-one years, shall appear on the said roll liable to pay the said fine, the said warrant shall direct the collector to collect the same of the father, guardian or employer with whom such person shall reside or be employed, or out of any property such minor may own or possess in the city, village, town or ward in said County; and such collector shall proceed and execute such warrant, and no property now exempt from other executions shall be exempt from the payment of such fine.

Payable to.

Minors.

SEC. 4. The County Treasurer of each County shall, on or before the twenty-fifth day of April in each year, pay the Treasurer of the State. upon his orders, the actual sum received from delinquents who have failed to attend such musters and drills; and it shall be the duty of the officers commanding the several regiments to furnish the County Commissioners the names who have failed to attend such musters and drills. The County Commissioners shall give the names of the persons so failing to the to work on County Auditor, and, unless they are excused, shall place an extra assess-public roads. ment of one dollar per day on their general tax, if a property holder; and in case said delinquent or any of them are not property holders, then he or they shall be compelled to work the public roads at a rate not exceeding one dollar per day.

Delinquents

SEC. 5. The bond required to be executed by the collectors, receivers of taxes and County Treasurers, shall also apply and extend to any moneys required to be collected for military purposes by this Act.

Bonds.

SEC. 6. That all tavern keepers, persons keeping boarders in their Information families, keepers of boarding houses, and any master or mistress of any by landlords. dwelling-house, shall, upon the application of any officer authorized to make such enrollment, give information of the names of all persons residing or lodging in such house liable to be enrolled, and all other proper information concerning such persons as such officers may require.

Sec. 7. That if any person of whom information is required by any such officer, in order to enable him to comply with the provisions of this for false in-Act, shall refuse to give such information, or shall give false information, he shall forfeit and pay twenty dollars for each item of information demanded of him by any such officer and falsely stated, and a like sum for each individual name concealed or falsely stated; and every person who shall refuse to give his own name and proper information, when applied

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A. D. 1869. to by any such officer, or shall give a false name or information, shall forfeit and pay a like sum, such penalties to be recovered in any Court of competent jurisdiction, in the name of the State of South Carolina; and it is hereby made the duty of such officer to report the names of all persons who may incur any penalty, under this Section, to any Magistrate or Justice of the Peace in the County for prosecution.

Publication.

Act, the Board of County Commissioners shall cause to be published, once a week for four weeks previous to the first day of February, in a newspaper with circulation in the County, or by written or printed placards, in not less than four public places, a notice that such rolls have been completed and filed as aforesaid; which notice shall also specify that any person who claims that he is, for any reason, exempt from military duty, shall, on or before the 15th day of February next ensuing, file a written statement of such exemption, certified by affidavit, in the office of said Clerk of the Courts of record, or before a Justice of the Peace or Magistrate, in said County; and the publication of such notice shall be sufficient notice of such enrollments to all persons named therein. roll shall be made in the form prescribed by the Commander-in-Chief, and the Adjutant-General shall furnish all the enrolling officers suitable blanks and instructions for the completion of such enrollment.

SEC. 8. That whenever an enrollment shall be made as provided in this

Blanks. '

Exempts.

SEC. 9. That all persons claiming exemption shall file a written statement of the same, verified by affidavit, in the office of the Town Clerk of the township in which he resides, on or before the fifteenth day of January, in default of which such person shall lose the benefit of such exemption, except such as are especially exempted by this Act or by Act

SEC. 10. That the person making such enrollment shall, thereupon, if such person be exempt according to law, mark the word "exempt" opposite the name of each person presenting such exemption; if such exemption be permanent, the name of such person shall not be included False swearin any subsequent enrollment. If any person shall swear falsely in such affidavit, he shall, upon proof thereof, be adjudged guilty of perjury in

SEC. 12. That if any officer charged with any duty under the provi-

sions of this Act, shall refuse or neglect to perform any of the duties re-

quired of him by this Act, he shall forfeit and pay the sum of not less than fifty nor more than one hundred dollars for each and every offence,

of the County, for the use of the military fund of the County where the

any Judicial Court of competent jurisdiction. SEC. 11. That the persons thus enrolled shall form the reserve militia

ing.

Reserve. First class, of the State of South Carolina; those over eighteen and not over thirty years of age shall constitute the reserve of the first class; and those over

second class.

fund may have accrued.

Second class. thirty and under forty-five years of age shall constitute the reserve of the

Neglect of duty.

Penalty.

to be recovered in the name of the people of the State of South Carolina; and such officer shall, as an additional penalty, be deemed guilty of a misdemeanor; and it shall be the duty of the Solicitor of the Judicial To be col-Circuit within which said offender resides, upon the complaint of the commanding officer of the regiment, or on the part of the Board of County Commissioners, to prosecute the same. Any penalty incurred and paid, or collected under this Section, shall be paid into the treasury

lected.

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Chief.

SEC. 13. That the Adjutant-General, under the direction of the Commander-in-Chief, shall organize and apportion the militia, and the districts therefor, into divisions, brigades, regiments, squadrons, troops, batteries and companies, and cause the same to be numbered and lettered as nearly in conformity with the laws and regulations governing the army of the United States as circumstances will permit, and may after divide, annex or consolidate the same, and the districts thereof, as he may judge expedient.

A. D. 1869. Organiza-

SEC. 14. That the organized militia of this State shall be known as the National Guard of the State of South Carolina, and shall consist of such divisions, brigades, regiments and battalions, and in addition thereto, such batteries of light artillery, and troops and squadrons of cavalry, as the Commander-in-Chief may deem expedient; and nothing herein contained shall be so construed as to interfere with the power of the Commander-in-Chief, in case of war or insurrection, or of imminent danger thereof, to may order order drafts of the militia, and to form new regiments, battalions, brigades or divisions, as he may deem just and proper: Provided, That there shall be no military organizations, or formations for the purpose of arming, ganizations drilling, exercising the manual of arms, or military manœuvres, not authorized under this Act, and by the Commander-in-Chief, and any neglect or violations of the provisions of this Section shall, upon conviction, be punished with imprisonment at hard labor in the State Penitentiary for a term not less than one year, nor more than three years, at the dis-

National

Governor drafts.

No other or-

cretion of a competent Court. SEC. 15. That an Assistant Adjutant-General may be appointed, if deemed necessary, by the Governor, by and with the advice and consent of the Senate. His salary shall be at the rate of fifteen hundred dollars per year, while on duty. The duties of Quartermaster-General shall devolve upon the Adjutant-General in times of peace.

Assistant General.

Sec. 16. That in case of invasion, insurrection or rebellion, or imminent danger thereof, the Governor shall appoint, by and with the advice invasion. and consent of the Senate, a Quartermaster-General, Commissary-General and a Surgeon-General.

In case of

SEC. 17. That the arms, equipments and munitions of the State shall be stored under the directions of the Commander-in-Chief, and in such arms. places as he may designate.

Storage of

SEC. 18. That all officers of the militia (except as herein provided) shall be appointed and commissioned by the Governor. They shall draw Governor. pay only when engaged in actual service.

Officers an-

SEC. 19. That all commissioned officers of the militia shall be appointed and commissioned by the Commander-in-Chief, and may be re-pointed. moved from office on recommendation by the commanding officer of their respective brigades and divisions. Removal may also be made by decision of a court martial, or retiring or examining board, pursuant to law. tials. and for misconduct any officer may be suspended by the Commander-in-

Officers ap-Removals. Court mar-

Sec. 20. That the militia of this State shall be mustered and drilled at such times as the Commander-in-Chief or commanding officers of dividucible drilled. sions, brigades and regiments may direct.

When to be

Approved March 16, 1869.

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A. D. 1869. AN ACT TO PROVIDE A LIEN ON BUILDINGS AND LANDS TO PARTIES FURNISHING LABOR AND MATERIALS THEREON.

No. 144.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Lien estab- and by the authority of the same, That any person to whom a debt is due for labor performed or furnished, or for materials furnished, and actually used in the erection, alteration or repair of any building or structure upon any real estate, by virtue of an agreement with, or by consent of, the owner of such building or structure, or any person having authority from, or rightfully acting for, such owner, in procuring or furnishing such labor or materials, shall have a lien upon such building or structure, and upon the interest of the owner thereof in the lot of land upon which the same is situated, to secure the payment of the debt so due to him, and the costs which may arise in enforcing such lien under this Act, except as is provided in the following Sections.

Notice to be given.

SEC. 2. Such lien for materials furnished shall not attach, unless the person furnishing the same, before so doing, gives notice to the owner of the property to be affected by the lien, if such owner is not the purchaser, that he intends to claim such lien.

Priority of mortgage.

Sec. 3. Such lien shall not avail or be of force against any mortgage actually existing and duly recorded prior to the date of the contract under which the lien is claimed.

May not attach.

Sec. 4. The owner of any such building or structure in process of erection, or being altered or repaired, other than the party by whom or in whose behalf a contract for labor and materials has been made, may prevent the attaching of any lien for labor thereon not at the time performed, or materials not then furnished, by giving notice, in writing, to the person performing or furnishing such labor, or furnishing such materials, that he will not be responsible therefor.

Sec. 5. Such lien shall be dissolved, unless the person desiring to avail solved unless himself thereof, within thirty days after he ceases to labor on, or furnish labor or materials for, such building or structure, files in the office of the Clerk of the Court of Common Pleas of the County in which the same is situated a statement of a just and true account of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien, sufficiently accurate for identification, with the name of the owner or owners of the property, if known, which certificate shall be subscribed and sworn to by the person claiming the lien, or by some one in his behalf, and shall be recorded in a book kept for the purpose by the Clerk, who shall be entitled to the same fees therefor as for recording mortgages of equal length.

Recorded.

invalidated.

SEC. 6. No inaccuracy in such statement, relating to the property to Not to be be covered by the lien, if the property can be reasonably recognized, or in stating the amount due for labor or materials, shall invalidate the proceedings, unless it appears the person filing the certificate has wilfully and knowingly claimed more than is his due.

SEC. 7. Unless a suit for enforcing the lien is commenced within ninety days after the person desiring to avail himself thereof ceases to labor on, or furnish labor or material for, such building or structures, the lien shall

be dissolved.

SEC. 8. The lien may be enforced by petition to the Court of Common

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Under \$100.

Pleas in the County where the building or structure is situated. The petition may be filed in term, or in the Clerk's office in vacation, and the date

of the filing shall be deemed the commencement of the suit.

SEC. 9. When the amount of the claim does not exceed one hundred dollars, the lien may be enforced by a petition to a Justice of the Peace; and such Justice shall have like power and authority within their jurisdiction as herein conferred upon the Court of Common Pleas, with like rights of appeal to the parties, as exist in other civil cases.

SEC. 10. The petition may be inserted in a writ of original summons,

and be served, returned and entered as other civil cases.

Sec. 11. Whether filed as a petition, or inserted in such summons, the The petition. petition shall contain a brief statement of the contract on which it is founded, and of the amount due thereon, with a description of the premises subject to the lien, and all other material facts and circumstances; and shall pray that the premises may be sold, and the proceeds of the sale be applied to the discharge of the demand.

SEC. 12. The Court may at any time allow either party to amend his

pleadings as in actions at common law.

Sec. 13. Any number of persons who have actually performed labor, or Conjoint pefurnished labor or materials on one or more buildings or structures upon titions. different lots of land, where the labor was performed for the same owner, contractor, or other person, may join in the same petition for their respective liens, and the same proceeding shall be had in regard to the rights of each petitioner, and the respondent may defend as to each petitioner, in the same manner as if he had severally petitioned for his individual lien.

SEC. 14. The Court in which the petition is entered shall order notice to be given to the owner of the building or structure, that he may ap- given. pear and answer thereto at a certain day in the same term, or at the next term, by serving him with an attested copy of the petition, with the order of the Court thereon, fourteen days at least before the time assigned for the hearing; and the Court shall also order notice of the filing of the petition to be given to all other creditors who have a lien of the same kind upon the same estate, by serving them with a copy of the last mentioned order in like manner.

Notice to be

SEC. 15. If it appears to the Court that any of the parties entitled to notice are absent, or that they cannot probably be found to be served with the notice, the Court may, instead of the personal notice before mentioned, or in addition thereto, order notice to all persons interested, by publishing in some newspaper the substance of the petition, with the order of the Court thereon, assigning the time and place for a hearing, or may order such other notice to be given as may, under the circumstances of the case, be considered most proper and effectual.

Advertise-

SEC. 16. If, at the time assigned for the hearing, it appears to the Court that any of the persons interested had not had a sufficient notice of notice. of the suit, the Court may order further notice to them, in such manner as may be considered most proper and effectual.

Extension

SEC. 17. At the time assigned for the hearing, or within such further time as the Court allows for that purpose, every creditor having a lienof the kind before mentioned upon the same property, may appear and prove itors. his claim; and the owner and each of the creditors may contest the several claims of every other creditor, and the Court shall hear and determine

Other cred-

A. D. 1869. them in a summary manner, either with or without jury, as the case may require.

Questions of fact.

Sec. 18. Every material question of fact arising in the case shall be submitted to a jury, if required by either party or thought proper by the Court; and the trial shall be had upon a question stated, or an issue framed, or otherwise, as the Court may order. A jury shall be had before a Justice of the Peace only as in other civil cases.

Court to determine amount.

SEC. 19. The Court shall ascertain and determine the amount due to each creditor who has a lien of the kind before mentioned upon the property in question; and every such claim due, absolutely and without any condition, although not then payable, shall be allowed, with a rebate of interest to the time when it would become payable.

Pro rata claims.

SEC. 20. When the owner fails to perform his part of the contract, and by reason thereof the other party, without his own default, is prevented from completely performing his part, he shall be entitled to a reasonable compensation for as much as he has performed, in proportion to the price stipulated for the whole, and the Court shall adjust his claim accordingly.

Sale of property.

Sec. 21. If the lien is established in favor of any of the creditors whose claims are presented, the Court shall order a sale of the property to be made by any officer authorized to serve civil process between the same parties.

A portion

SEC. 22. If part of the property can be separated from the residue, and may be sold, sold, without damage to the whole, and if the value thereof is sufficient to satisfy all debts proved in the case, the Court may order a sale of that part, if it appears to be most for the interest of all parties concerned.

Notice of sale.

SEC. 23. The officer who makes the sale shall give notice of the time and place, in the manner prescribed in relation to the sale on execution of a right of redeeming mortgaged lands, unless the Court orders a different notice to be given.

Redemption.

SEC. 24. Any interest in real estate so sold may be redeemed in the manner provided in the case of a sale on execution of the right of redeeming mortgaged lands.

Distribution of proceeds.

SEC. 25. If all the claims against the property covered by the lien are ascertained at the time of ordering the sale, the Court may order the officer to pay over and distribute the proceeds of the sale, after deducting all lawful charges and expenses, to and among the several creditors, to the amount of their respective debts, if there is sufficient therefor; and if there is not sufficient, then to divide and distribute the same among the creditors in proportion to the amount due to each of them.

May be postponed.

SEC. 26. If all the claims are not ascertained when the sale is ordered. or if, for any other reason, the Court finds it necessary or proper to postpone the order of distribution, it may direct the officer to bring the proceeds of the sale into Court, there to be disposed of according to the decree of the Court; and if by reason of the claims of attaching creditors, or for any other cause, the whole cannot be conveniently distributed at once, the Court may make two or more successive orders of distribution, as the circumstances may require.

Surplus to

SEC. 27. If there is any surplus of the proceeds of the sale, after makbe paid to ing all the payments before mentioned, it shall be forthwith paid over to the owner of the property; but such surplus, before it is so paid over, shall be liable to be attached or taken on execution in like manner as if it proceeded from a sale made by the officer on an execution.

SEC. 28. If the interest of the owner in the building, structure or land is under attachment at the time of filing and recording the statement of the account, the attaching creditor shall be preferred to the extent of the value of the buildings and land as they were when the statement was recorded; and the Court shall ascertain, by a jury or otherwise, as the case may require, what proportion of the proceeds of the sale shall be held subject to the attachment as derived from the value of the property when the statement was recorded.

Attachi n g creditor preferred.

A. D. 1869.

SEC. 29. If the attaching creditor recovers judgment, he shall be entitled to receive on his execution the proportion of the proceeds held subject to his attachment, or as much thereof as may be necessary to satisfy his execution, and the residue of the proceeds shall be applied in the same manner as if there had been no such attachment.

Residue.

SEC. 30. If the interest of the owner of the property is attached after the recording of the statement, the proceeds, after discharging all prior liens and claims, shall be applied to satisfy the execution of such attaching creditor.

Prior cred-

SEC. 31. If an attachment is made after the recording of such statement, and if, after the attachment, another like statement is recorded, the creditor in the latter statement shall be entitled to be paid only out of the residue of the proceeds remaining, after paying all that is due on the demands, a statement of which is recorded before the attachment, and satisfying the attaching creditor.

Order of

SEC. 32. When there are several attaching creditors they shall, as between themselves, be entitled to be paid according to the order of their payments. attachments; but when several creditors, who are entitled to the lien provided for in this Act, have equal rights, as between themselves, and the fund is insufficient to pay the whole, they shall share it equally, in proportion to their respective debts.

Pro rata.

Sec. 33. If the person for whom the work is done or materials are furnished has an estate for life, or any other estate less than a fee simple in the land, or if the property at the time of recording the statement is mortgaged, or under any other incumbrance, the lien before provided for shall bind his whole estate and interest therein in like manner as a mortgage would have done, and the creditor may cause the right of redemption, or whatever other right or estate the owner had in the property, to be sold and applied to the discharge of his debt, according to the provisions of this Act.

Life estate.

SEC. 34. If the person indebted dies or conveys away his estate or interest before the commencement of a suit on the contract, the suit may be commenced and prosecuted against his heirs or whoever holds the estate or interest which he had in the premises at the time the labor or materials were performed or furnished; or if a suit is commenced in his life time, it may be prosecuted against his executors, administrators, heirs or assigns in like manner as if the estate or interest had been mortgaged to secure the debt.

Hoirs or as-

SEC. 35. If the creditor dies before the commencement of the suit, the suit may be commenced and prosecuted by his executors and administra- creditor. tors; or if commenced in his life time, it may be prosecuted by them as it might have been by the deceased, if living.

SEC. 36. If it appears in any stage of the proceedings that the suit was commenced by the petitioning creditor before his right of action accrued,

of suits.

or after it was barred, or if he become non-suit, or fails to establish his claims, suit may be prosecuted by any other creditor having such lien, Recom- in the same manner as if it had been originally commenced by him, if mence ment the circumstances of the case are such that he might then, or at any time after the commencement of the original suit, have commenced a like suit on his own claim.

> SEC. 37. If the suit is commenced by the petitioning creditor before his right of action accrues, his claim may nevertheless be allowed, if the suit is carried on by any other creditor, as provided in the preceding Section; but he shall not in any case be entitled to costs; and he may be required to pay the costs incurred by the debtor, or such part thereof

as the Court may deem reasonable.

Costs.

SEC. 38. The costs in all other respects shall be subject to the discretion of the Court, and shall be paid from the proceeds of the sale, or by any of the parties to the suit, as justice and equity require.

Suitat common law.

Sec. 39. Nothing contained in this Act shall be construed to prevent a creditor in such contract from maintaining an action thereon at the common law in like manner as if he had no such lien for the security of his debt.

Lien discharged.

SEC. 40. When a debt secured by such lien is fully paid, the creditor, at the expense of the debtor, shall enter on the margin of the registry, where the statement is recorded, a discharge of his lien, or shall execute a release thereof, which may be recorded where the statement is recorded.

Regulations.

Ships or vessels.

Sec. 41. All the regulations concerning the endorsement of original writs shall apply to the endorsement of petitions filed under this Act. Sec. 42. When by virtue of a contract, expressed or implied, with the owners of a ship or vessel, or with the agents, contractors, or sub-contractors of such owners, or any of them, or with any person having been employed to construct, repair or launch such ship or vessel, or to assist them, money is due to any person for labor performed, materials used, or labor and materials furnished in the construction, launching, repairs of, or for constructing the launching-ways for, or for provisions, stores, or other articles furnished for or on account of such ship or vessel in this State, such person shall have a lien upon the ship or vessel, her tackle and furniture, to secure the payment of such debt; which lien shall be preferred to all others thereon, except mariner's wages, and shall continue until the debt is satisfied.

Statement to be filed.

SEC. 43. Such lien shall be dissolved, unless the person claiming the same filed, within four days from the time the ship or vessel departs from the port at which she was when the debt was contracted, in the office of the Clerk of the Court of Common Pleas of the County within which the ship or vessel was at the time the debt was contracted, a statement, subscribed and sworn to by himself, or by some person in his behalf, giving a just and true account of the demand claimed to be due to him, with all just credits; and also the name of the person with whom the contract was made, the name of the owner of the ship or vessel, if known, and the name of the ship or vessel, or a description thereof sufficient for identification; which statement shall be recorded by said Clerk of the Court of Common Pleas, in a book kept by him for that purpose, for which he shall receive the same fees as for recording other papers of equal length.

Recorded.

SEC. 44. If the ship or vessel is partly constructed in one place and

partly in another, either place shall be deemed the port at which she was when the debt was contracted, within the meaning of this Act; and no inaccuracy in the description of the ship or vessel, if she can be recognized thereby, or in stating the amount due for labor or materials, shall construction. invalidate the proceedings, unless it appears that the person filing the certificate has knowingly and wilfully claimed more than his due.

A. D. 1869. Place of

SEC. 45. Such lien may be enforced by petition to the Court of Common Pleas for the County where the vessel was at the time the debt was contracted, or in which she is at the time of instituting proceedings. petition may be entered in Court, or filed in the Clerk's office in vacation. or may be inserted in a writ of original summons, with an order of attachment, and served, returned and entered as other civil actions, and the subsequent proceedings for enforcing the lien shall, except as hereinafter provided, be as prescribed for enforcing liens on buildings and lands, so far as the same are applicable. At the time of entering or filing the petition, a process of attachment against such ship or vessel, her tackle, apparel and furniture, shall issue and continue in force, or may be dissolved like attachments in civil cases, but such dissolution shall not dissolve the lien.

Method of enforcement.

SEC. 46. The petition shall contain a brief statement of the labor, materials, or work done or furnished, or the stores, provisions or other of items. articles furnished, and the amount due therefor, with a description of the ship or vessel subject to the lien, and all other material facts and circumstances, and shall pray that the ship or vessel may be sold and the proceeds of the sale applied to the discharge of the demand.

Statem ent

SEC. 47. The Court may at any time allow either party to amend his pleadings as in actions at common law.

Amendment of pleadings.

SEC. 48. Any number of persons having such liens upon the same ship or vessel may join in the same petition to enforce the same; and the same proceedings shall be had in regard to the respective rights of each petition, and the respondent may defend as to each petitioner in the same manner as if they had severally petitioned for their individual liens.

be marshal-

Sec. 49. When there is money due to more than one person holding a lien upon a ship or vessel under the provisions of this Act, all parties interested having been cited to appear and answer, the claims of all shall be marshaled, and the Court shall make such order or decree as may be necessary to prevent the enforcement of a double lien for the same labor, materials, stores, provisions or other articles, and to secure the just rights of all. And the proceeds arising from the sale of such ship or vessel, after deducting all proper costs and expenses, shall be distributed among the several claimants to the amount of their respective debts: Provided, That when such proceeds are insufficient to satisfy the liens of Per centage. all those having liens for labor, they shall receive a per centage on their respective claims one-third greater, as near as may be, than those having liens for materials, stores or other articles.

Approved March 16, 1869.

AN ACT TO AMEND THE CHARTER OF THE SULPHURIC ACID AND SUPER-PHOSPHATE COMPANY.

Section 1. Be it enacted by the Senate and House of Representatives 29

No. 145.

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A. D. 1869.

capital.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Sulphuric Acid and Super-Increase of phosphate Company shall have power from time to time to increase their

capital stock to any amount not exceeding five hundred thousand dollars, including their present capital stock, whenever a majority of the stockholders present at any general meeting, or the Board of Directors by their authority, shall determine. And such additional stock shall be divided

Division.

among the stockholders exactly in proportion to their shares in the capital stock of the company at the time of such increase. But in case any stockholder should not desire to take, or should neglect for one month to take, his or her proportion of such increased stock, the same shall be allotted or disposed of among the other stockholders, and books may be opened for the purpose of obtaining additional subscribers to such increased stock, in such manner as the Board of Directors may deem expedient. And in no case shall the members who are unwilling to take their proportion in such

Affidavit.

SEC. 2. Whenever any such increase of capital shall have been made as aforesaid, the President and Secretary shall make affidavit of the fact, and file the same in the office of the Secretary of State, and make publication thereof once a week for three consecutive weeks in a newspaper in the city of Charleston, which shall be legal notice to all persons dealing

increase of stock be assessed to contribute or to make up such increase.

with said corporation.

Powers.

Sec. 3. The said company shall have succession of officers and members, to be chosen according to the rules and by-laws, made or to be made for their government and direction, and shall have power and authority to make by-laws not repugnant to the laws of the land; to have, use and make a common seal, and the same to break and alter at will; to sue and be sued, plead and be impleaded, in any Court of Law or Equity; to purchase, take, hold, sell and convey, in fee simple or for less estate, any 'lands, tenements, or hereditaments, goods, chattels, rights and credits, which may be connected with, or in any manner conducive to, the purposes for which said company is established; to dig and mine for earths, marls, rocks and minerals; to manufacture the same, and such other materials as they may purchase or acquire, into chemicals, acids and fertilizers; to carry on trade therein; and to cultivate such lands as may be purchased or acquired by the said company for the purposes aforesaid.

Liability.

SEC. 4. The stockholders in the said company shall be jointly and severally liable for all debts that may be due and owing to all their laborers, servants and apprentices, for services performed for such corporation, and which the said corporation shall fail to pay; said stockholders shall be also liable to the amount of their respective share or shares of stock in said corporation for all its debts and liabilities; and, subject to these provisions, the said corporation may carry on its business, free from the restrictions, limitations and provisions imposed by the second Section of the Act to authorize and regulate the creation of private corporations within this State, approved 20th December, A. D. 1866.

Construct railroad.

SEC. 5. The said company is hereby authorized to construct a railroad or train way from the navigable waters on which their works are situate to the Northeastern and South Carolina Railroads, and for that purpose to lay their track along and across any public way: Provided, That such precautions are taken as to offer no hindrance to the public use of such way.

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SEC. 6. That this charter shall remain in force for thirty years after the passage of this Act, and until the end of the next ensuing session of the General Assembly: Provided, That on the expiration or dissolution of the said corporation, the property thereof shall be vested in the several members of said corporation in proportion to their respective shares in the capital stock after payment of all the debts of the said corporation.

Approved March 19, 1869.

AN ACT TO ESTABLISH A LAZARETTO OR QUARANTINE HOSPITAL IN THE HARBOR OF CHARLESTON.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor of the State and tion of hosthe Health Officer of the port of Charleston be, and are hereby, author-pital. ized to establish, at some point on Morris Island to be by them selected, a quarantine hospital or lazaretto, together with the necessary buildings for the accommodation of a keeper, nurses, and other attendants.

SEC. 2. The station of the Health Officer or his deputies shall be at a suitable point on Sullivan's Island, or at Fort Johnson, as may be thought best for the expeditious boarding and examination of vessels arriving from all ports into the harbor of Charleston; the location of said station to be determined upon by the Health Officer, with the approval of the Governor; and the necessary buildings shall be erected for the accommodation of the Health Officer and his deputies.

Health sta-

SEC. 3. The sum of eight thousand dollars, if so much be necessary, is Appropriahereby appropriated out of any moneys in the Treasury not otherwise tion. appropriated for the immediate erection and completion of the buildings and appurtenances absolutely necessary to meet the intention of this Act: said appropriation to be expended for the purposes hereinbefore mentioned, under the supervision of the Governor and the Health Officer of the said port of Charleston.

Approved March 19, 1869.

AN ACT TO PROTECT LABORERS AND PERSONS WORKING UNDER CON-No. 147. TRACT ON SHARES OF CROPS.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all contracts made between owners of land, their agents, administrators or executors, and laborers, shall be witnessed by one or more disinterested persons, and, at the request of either party, be duly executed before a Justice of the Peace or Magistrate, whose duty it shall be to read and explain the same to the parties. Such contracts shall clearly set forth the conditions upon which the laborer or laborers engaged to work, embracing the length of time, the

Contracts witnessed.

amount of money to be paid, and when; if it be on shares of crops, what portion of the crop or crops.

Crops to be divided.

Sec. 2. That whenever labor is performed under contract on shares of crop or crops, such crop or crops shall be gathered and divided off before it is removed from the place where it was planted, harvested or gathered. Such division to be made by a disinterested person, when desired by And such disinterested party shall be chosen, either party to the contract. by and with the consent of the contracting parties, whenever the parties fail to agree upon any disinterested party, or if complaint is made that the division has been unfairly made, within ten days after such division, it shall be the duty of the Justice of the Peace or Magistrate residing nearest the place where such crop or crops are planted, harvested or gathered, to cause, under his immediate supervision, such equitable division as may be stipulated in the contract. Such disinterested party or Justice of the Peace or Magistrate shall receive a reasonable compensation for such service, to be paid by both of the contracting parties, according to their several interests, except in cases of an attempt to wilfully defraud the other by one of the contracting party; then such compensation shall be paid by the party so attempting to defraud the other. When such division has been made, each party shall be free to dispose of their Debts to be several portions as to him or her or them may seem fitting: Provided,

settled.

That if either party be in debt to the other for any obligation incurred under contract, the amount of said indebtedness may be then and there settled and paid by such portion of the share or shares of the party so indebted as may be agreed upon by the parties themselves, or set apart by the Justice of the Peace or Magistrate, or any party chosen to divide said

Lien on crop. crop or crops.

Sec. 3. That whenever laborers are working on shares of crop or crops, or for wages in money or other valuable consideration, they shall have a prior lien upon said crop or crops, in whosesoever hands it may be. Such portion of the crop or crops to them belonging, or such amount of money or other valuable consideration due, shall be recoverable by an Violation of action in any Court of competent jurisdiction.

SEC. 4. That whenever such contract or contracts are violated, or at-

contract.

Remedy.

tempted to be violated or broken, or whenever fraud is practiced, or attempted to be practiced, by either party to such contract or contracts, at any time before the conditions of the same are fulfilled and the parties released therefrom, complaint may be made before a Justice of the Peace or Magistrate, or may be carried before any Court having jurisdiction in such cases, where the extent and character of the offence shall be determined. If the offending party be the land owner or owners, his, her. or their agent or agents, and fraud has been practiced, or attempted to be practiced, either in keeping any account or accounts between him, her, or

Penalty.

them, and the other party or parties to such contract or contracts, or in the division of the crop or crops, or the payment of money or other valuable consideration, upon proof to conviction, such offender or offenders shall forfeit and pay a fine, not less than fifty (50) dollars, nor more than five hundred (500) dollars; or if it be a disinterested party chosen to make a division or divisions of crops hereinbefore provided, he, she, or they, shall be liable to an action of trespass, and shall be tried in any Court of competent jurisdiction, and on proof to conviction, be fined in a sum not less than fifty nor more than five hundred dollars, or be imprisoned for a period not less than one month nor more than one year, at

the discretion of the Court. If the offending party be a laborer or laborers, and the offence consist either in failing wilfully and without just cause to give the labor reasonably required of him, her, or them, by the terms of such contract, or in other respects shall refuse to comply with the conditions of such contract or contracts, or shall fraudulently make use of or carry away from the place where the crop or crops he, she, or they, may be working are planted, any portion of said crop or crops, or anything connected therewith or belonging thereto, such person or persons so offending shall be liable to fine or imprisonment, according to the gravity of the offence, and upon proof to conviction before a Justice of the Peace or a Court of competent jurisdiction.

SEC. 5. Any Justice of the Peace or other officer before whom com- Responsibilplaint is made, and whose duty it is to try such cases as is hereinbefore ity of Magis-

provided, who shall offend against the true intent and meaning of this Act, or shall refuse to hear and determine, impartially, all cases that may be brought before him, under the provisions of this Act, and all peace officers, whose duty it is to apprehend all offenders against the laws of the State, who shall refuse to perform their duty in bringing to justice any and all offenders against this Act, shall be liable to a charge of malfeasance in office, and upon proof to conviction shall be forthwith removed from office, and fined in a sum not less than fifty nor more than one hundred dollars.

SEC. 6. All Acts and parts of Acts in any way conflicting with the provisions of this Act are hereby repealed.

SEC. 7. This Act shall take effect and have full force of law from and after its passage.

Approved March 19, 1869.

AN ACT TO PROVIDE FOR THE ENUMERATION OF THE INHABITANTS No. 148. OF THIS STATE.

Whereas, by the fourth Section of the second Article of the Constitution of this State, as ratified on the 14th, 15th and 16th days of April, A. D. 1868, it is provided that for the purpose of an apportionment of the representation of the several Counties of the State an enumeration of the inhabitants shall be made in 1869, and again in 1875, and shall be made in the course of every tenth year thereafter, in such manner as shall be by law directed:

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-ment of enubly, and by the authority of the same, That the Governor be, and he is hereby, authorized and required to appoint one person in each County of the State, who shall be charged with taking the census, and who shall be authorized to appoint such assistants as may be necessary: Provided, That the number of assistants shall not exceed four in each County, except in the County of Charleston, in which County the number of assistants shall not exceed six.

SEC. 2. That each and every person so appointed to take the census shall, before entering on the duties of his office, take, before some Magistrate or Justice of the Peace, the following oath, to-wit: "I, A. B., do

Appointmerators.

Oath.

A. D. 1869. solemnly swear (or affirm, as the case may be,) that I will honestly, faithfully and impartially take a correct census of all the inhabitants residing within the portion of the County to which I have been appointed as census taker, and will, in all respects, truly perform all the duties with which I am charged: So help me God." And a certificate from the Magistrate or Justice of the Peace who shall administer the said oath that the same has been duly taken before him shall accompany and be delivered with each and every return of the census.

Duty.

SEC. 3. That it shall be the duty of each and every person appointed to take the census, by virtue of this Act, to call personally on the head or some member of each family in the County, or portion of the County, for which he or they shall have been appointed, and obtain from such head of a family or member thereof, as aforesaid, the number of persons contained in such family, and such other information as may be required and directed by the Commissioner of the Bureau of Agricultural Statistics.

Return on oath.

SEC. 4. That each head or member of a family shall, when summoned thereto by the persons appointed under this Act to take the census, at his, her, or their residence or place of business, make, on oath or affirmation, a correct return of all persons of whom his or her family is composed, and also report such other information to said census takers as may be required by law; and the persons so appointed to take the census are hereby authorized to administer such oaths; and upon the failure of any person to make such returns or reports, when required, he or she shall be subject to a penalty of twenty-five dollars, to be recovered in any Court of competent jurisdiction.

Completion of returns.

Sec. 5. That upon the completion of such returns and reports, each census taker shall deposit the same, in a sealed package, with the Auditor of his County, accompanied by a certificate, to be endorsed by some Magistrate or Justice of the Peace, purporting that the following oath had been duly taken by such census taker previous to the delivery of such package to said Auditor, to-wit: "I, A. B., do solemnly swear (or affirm, as the case may be,) that this packet contains a just, true, correct and impartial return of all the inhabitants of the census district to which I have been appointed, and a faithful report of such information as was required by the Commissioner of the Bureau of Agricultural Statistics, so far as it was practicable to obtain the same: So help me God."

To be forwarded.

SEC. 6. That it shall be the duty of the census takers for the County under the direction of the Commissioner of the Bureau of Agricultural Statistics, to divide their several Counties into convenient districts for taking the census herein provided for, to distribute blanks, books and instructions to the census takers, to receive their returns when completed, and forward the same by the first day of November next to the Commissioner of the Bureau of Agricultural Statistics, and to render such further assistance to said Commissioner in the premises as that officer may desire.

Books blanks and instructions.

Sec. 7. That it shall be the duty of the Commissioner of the Bureau of Agricultural Statistics to have prepared, on or before the fifteenth day of April next, suitable books, blanks and instructions to facilitate the registration provided for in this Act and the collection of such statistical information as said Commissioner may deem of sufficient importance to the people of this State; and when the census takers shall have made the

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returns hereinbefore provided for, the said Commissioner shall forthwith report the results of such registration to the Governor of the State for the time being, and shall make a collated return of the statistics to the General Assembly at its next regular session.

A. D. 1869.

SEC. 8. That the Governor of the State for the time being shall immediately after receiving from the Commissioner of the Bureau of Agricul- of errors.

Correction

tural Statistics the report provided for in the seventh Section of this Act, examine the same, and, in case it shall appear to him that any person or persons appointed to take the census as aforesaid shall in anywise have failed to comply with the duties imposed on him or them by this Act, either in taking the census or in making the other returns as hereinbefore specified, he shall forthwith cause the same to be taken and returned pursuant to the provisions of this Act wherever defaults shall have been

Compensa-

Assistants.

SEC. 9. That the census taker employed in taking the census shall be entitled to receive, as compensation for his services, the sum of five dol-tion. lars per day, and his assistants four dollars per day, whilst actually employed, and no more. Such compensation shall be paid monthly out of any moneys in the Treasury not otherwise appropriated, upon warrants to be drawn by the Comptroller-General whenever he shall have received satisfactory proof that the services of the claimant have been faithfully rendered in compliance with the provisions of this Act. And the Commissioner of Agricultural Statistics is hereby authorized to employ clerical service to assist him in collating and making his returns, such service to be paid for out of the contingent fund of the Bureau of Agricultural Statistics, and not to exceed the sum of three hundred dollars.

Approved March 19, 1869.

AN ACT TO INCORPORATE THE LONGSHOREMEN'S PROTECTIVE UNION Association, of Charleston.

No. 149.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Tobias Y. Clark, Charles Swinton, May Edwards, Richard Green, Anthony Grant, and such other persons as may now or hereafter shall be associated with them, are hereby made and declared to be a body politic and corporate, by the name and style of the Longshoremen's Protective Union Association, of Charleston.

Corporators.

SEC. 2. That the association aforesaid shall have succession of officers and members according to its by-laws, and shall have power to make bylaws, not repugnant to the laws of the land, and to have, use and keep a common seal, and the same to alter at will, to sue and be sued, and plead and be impleaded, in any Court in this State. It is hereby empowered to retain, possess and enjoy all such property, real and personal, as it may possess, or be entitled to, or which shall hereafter be given, bequeathed to, or in any manner acquired by it, and to sell, alien or transfer the

Powers.

SEC. 3. That this Act shall be a public Act, and continue in force for the term of twelve years from the date of its ratification.

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A. D. 1869. AN ACT to authorize the consolidation of the Charlotte and South Carolina Railroad Company and the Columbia and Au-No. 150. GUSTA RAILROAD COMPANY, AND AMENDING THE CHARTERS THEREOF.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Consolida- and by the authority of the same, That the Charlotte and South Carolina Railroad Company and the Columbia and Augusta Railroad Company shall, upon the consent of the stockholders of each company, be consolidated, and form one and the same body corporate, under the name of the Charlotte, Columbia and Augusta Railroad Company, possessing all the rights, powers, privileges, immunities and franchises conferred upon said companies by the several Acts heretofore passed and now of force, incorporating said companies, and amending the charters thereof: Provided, That nothing herein contained shall be so construed as to validate any Act of the General Assembly passed under the Provisional Government guaranteeing the aid of the State in the construction of the road: Provided, further, That nothing herein contained shall be so construed as to conflict with the Constitution of this State as ratified by the people on April 14th, 15th and 16th, 1868, or an Act entitled "An Act to provide for the assessment and taxation of property," as ratified on the 15th of September, 1868.

Sec. 2. That the affairs of the said consolidated company shall be managed and directed by a general board, to consist of eighteen Directors, to be elected by the stockholders from among their number: Provided, That four of the Directors shall be elected from amongst the stockholders residing in the State of North Carolina, and four amongst the stockhold-

ers residing in the State of Georgia.

SEC. 3. That the question of approving the consolidation of companies herein authorized shall be submitted to meetings of the stockholders of each of the said companies, to be called by the Presidents thereof within six months from the passage of this Act, of which one month's public notice shall have been given in the newspapers of the cities of Charlotte, Columbia and Augusta, at which meetings the question shall be submitted to the decision of the respective companies, and determined in the manner provided in their respective charters, now of force, for the decision of matters upon which it is necessary for the stockholders to act as

SEC. 4. That all questions of property, debts, credits, equalization of stock, and other matters of detail that may arise upon the consolidation of companies herein authorized, shall be determined by the respective companies at the meetings hereinbefore provided for, or at adjourned

meetings held subsequent thereto.

Sec. 5. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

Approved March 19, 1869.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE ATTACHMENTS."

Section 1. Be it enacted by the Senate and House of Representatives

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same. That so much of Sections five, six, seven, nine, ten, eleven, twelve, thirteen and fourteen of the Act entitled Amendment. "An Act to regulate attachments," ratified the twenty-fourth day of September, A. D. 1868, as relates to the seizure, upon a warrant of attachment, of real and personal estate, books of account, vouchers and papers relating to the property, debts, credits and effects of the debtor, together with all evidences of his title to real estate, and the practice and mode of procedure upon such attachment and seizure, including collections, and the commencement of suits and legal proceedings, shall be, and the same is hereby, extended to the attachment and seizure of property and choses in action under and by virtue of execution or other final process.

SEC. 2. That no execution or other final process upon a judgment, order or decree rendered on a writ of mandamus, quo warranto, habeas corpus, or prohibition, shall be stayed by, or in consequence of, a writ of

error or appeal taken therefrom.

Approved March 19, 1869.

AN ACT TO ESTABLISH A FERRY BETWEEN HILTON HEAD ISLAND AND THE MAIN-LAND, IN BEAUFORT COUNTY.

No. 152.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Ferry over Scull Creek, known as "Buckingham Ferry," from the Island of Hilton Head, Beaufort County, to the main-land be, and the same is hereby, established for the term of fourteen years, and that Cuffy Steward shall have the right to collect toll over the same at the same rates as are now established.

Approved March 19, 1869.

AN ACT TO REPEAL SECTION EIGHT OF "AN ACT TO ALTER THE ACT ENTITLED 'AN ACT TO AMEND THE CRIMINAL LAW.'"

No. 153.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section 8 of an Act, passed on Amendment. the 21st day of December, A. D. 1866, entitled "An Act to alter the Act entitled 'An Act to amend the criminal law,'" be, and the same is hereby, repealed.

Approved March 23, 1869.

AN ACT TO INCORPORATE THE SOUTH CAROLINA IMPROVEMENT AND No. 154. TRUST COMPANY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, 30

Purposes.

and by the authority of the same, That Henry J. Fox, William F. Martin, J. G. Miller, B. F. Whittemore, R. J. Donaldson, O. L. Jerralds, W. Incorpora- J. Clapp, H. Best, John McCulla, F. A. Babcock, D. Thomas, Wm. Harris and M. S. Gill, and their associates, are hereby created a body politic and corporate, by the name and style of the South Carolina Improvement and Trust Company, for the purpose of securing and employing foreign and domestic capital in the purchase of lands, mills, mill sites, water powers, valuable franchises and other property, and in the erection of mills and factories, and in supplying and operating the same, and also in stocking and working plantations and disposing of the same: Provided, however, That the said corporation shall be organized and go into operation within one year after the passage of this Act.

Powers.

SEC. 2. That the said corporation shall have power to purchase, acquire, hold, use and dispose of real estate in any of the several Counties in this State, but not in any other State, except the same shall be required to secure the payment of claims held by said corporation, to erect mills and factories in this State, and to stock, furnish and operate the same, and to dispose of, generally, the articles so made and manufactured, and to stock, and work, and operate farms and plantations within this State, and to dispose of, generally, the products of the same. Said corporation shall have power, also, to borrow money by issuing interest-bearing bonds equal in amount to its paid in capital, as hereinafter provided, and to mortgage its corporate franchises and property to secure the payment of the same; to adopt by-laws, and elect officers, and employ agents and labor in pursuance of the same.

Capital stock.

Increase of.

SEC. 3. The capital stock of said corporation shall be five hundred thousand dollars, divided into shares of one hundred dollars each. Directors of said corporation may, at any time, with the consent, in writing, of the stockholders holding a majority of the stock, increase such capital. The shares shall be deemed personal property, and may be transferred in such manner as shall be prescribed by the by-laws of the corpo-The Directors of the corporation hereby created may issue full paid stock for the purpose of purchasing property, both real and personal, and also for the employment of labor and services, professional and otherwise, necessary for the purposes of the corporation, to the amount of the value thereof, and the stock so issued shall not be liable to any further assessments; neither shall the holders thereof be liable for any other payments on such stock under the provisions of this Act; but in all statements and reports of the corporation hereby created such stock shall not be stated or reported as being cash paid into the corporation, but shall be stated and reported according to the fact.

Mortgages.

SEC. 4. The mortgages mentioned herein, and the bonds to be issued to secure the payment of the same, hereinbefore and hereinafter mentioned, shall be subject to the following conditions: Said mortgages shall be, in their order, liens on the corporate franchises and property of said corpora-The bonds shall be made payable in twenty years from their date, bearing interest at the rate of seven per cent., payable annually, and the Directors may confer on any holder of any such bond the right to convert the principal due and owing thereon into stock of said corporation. at any time not exceeding ten years from the date of the same, under such regulations as the Directors may see fit to adopt. Such bonds shall be issued only when it shall appear, on the written oaths of the President and Secretary of said corporation, that its unencumbered real estate, cash assets and other property amounts in value to the sum of twenty thousand dollars, and then only to that amount, except that similar amounts of bonds may be issued whenever the property and assets are shown in the same manner to have increased in value to an additional amount of twenty thousand dollars, and so on with every subsequent increase to that amount, until the several amounts shall embrace the maximum limit of the capital.

SEC. 5. The first nine persons named in the first Section of this Act Board of Dishall constitute the first Board of Directors of the corporation hereby rectors. created, and shall hold their places as such until the first day of April, 1870, and until others shall be elected in their stead, and a majority of them may, at any meeting of their Board at any time hereafter, designate three or more of their number to open books, after twenty days' previous public notice in any paper regularly published in this State, receive subscriptions to the capital stock of the corporation hereby created, at such place or places, and under such regulations, and the per centage to be paid, in all respects, as the Board of Directors may prescribe. The number of Directors, after the first election, shall not be less than seven or more than twenty-one, to be fixed upon by the by-laws. An election of Directors shall take place on the first Monday in April, in the year 1870, and annually thereafter on that day, at an hour and place to be designated in the by-laws, and the persons then elected by a majority of shares voted upon by the stockholders, in person or by proxy, shall constitute the Directors for the ensuing year, and until others shall be elected in their And in case it shall happen at any time that an election of Directors shall not be made on the day herein designated, it shall be lawful to hold such election on some day thereafter, on full and reasonable notice to All vacancies which shall occur in the Board of Directthe stockholders. ors shall be filled by appointment by a majority of the remaining memhers of the Board for the balance of the term. A majority of said Board shall form and constitute a quorum.

Sec. 6. The officers of the corporation hereby created shall consist of a President, Vice-President, Treasurer and Secretary, who shall be elected by the Board of Directors from their number, and such committees may be appointed, and such subordinate officers, agents and employees, as the Board may deem proper and necessary.

SEC. 7. The term of said corporation is hereby limited to fifty (50) Said corporation shall have power to adopt and use a corporate real, to sue and be sued, to plead and be impleaded, and also to establish its principal office in the city of New York, and such branch offices in different sections of the State, and in foreign countries, as the company mav require.

SEC. 8. Should it be deemed for the interests of this company, or for the improvement of its real estate, or for the marketing of its products, to have road improvements, then it is hereby granted to them the privilege of constructing roads, either plank or macadamized, with the privilege of connecting with any other road in the State.

SEC. 9. This corporation shall enjoy all the privileges that are awarded under the general laws of the State to any corporation, together with the special privileges accorded by this charter.

Approved March 23, 1869.

A. D. 1869.

Election.

Officers.

Offices.

. Roads.

A. D. 1869. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE MANNER OF DRAWING JURORS."

No. 155.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Amendment. and by the authority of the same, That Section 5 of the Act entitled "An Act to regulate the manner of drawing juries," ratified the 25th day of September, Anno Domini 1868, be, and the same is hereby, amended by the addition of the following at the end of the Section: "Provided, always, That the list, when completed, shall be such that the number of names of white voters thereon shall bear, to the number of names of colored voters, as near as may be, the same proportion as the whole number of white voters bears to the whole number of colored voters in the township, city or County, as the case may be."

Section 19.

SEC. 2. Section 19 of said Act is hereby amended by striking out the word "cities," and inserting in lieu thereof the words "the city of Charleston."

SEC. 3. That the following be substituted for Section 20, to-wit: "The Mayor and Aldermen and Clerk of the said city shall have and exercise all the powers and duties with regard to drawing, and all other matters relating to jurors therein, which are in this Act required to be performed by the Selectmen and Town Clerks of their respective towns, and all venires for jurors to be returned from said city shall be served on the Mayor and Aldermen."

Section 25. Section 42. Sec. 4. That the proviso to Section 25 be stricken out.

SEC. 5. That Section 42 be stricken out, and the following substituted,

to-wit: "This Act shall take effect from its passage."

Jury lists

Sec. 6. That immediately after the passage of this Act, if any one or for Counties. all of the townships of any County shall not have been duly organized, and a jury list therefor made according to law, the Sheriff and Clerk of the Court of Common Pleas for the County shall, in connection with the County Commissioners, or a majority of those in office, make up a jury list for the County, according to the provisions of this Act, exercising for this purpose all the powers conferred upon Selectmen of towns. when prepared, shall be posted up at or near the court house door, by the said Clerk and Commissioners, for ten days at least, after which they shall have power to revise, correct and adopt the same. Of the list adopted by the Clerk and Commissioners, they shall cause the names to be written, each one on a separate paper or ballot, and shall roll up or fold the ballots so as to resemble each other as much as possible, and so that the name written therein shall not be visible on the outside, and they shall place the ballots in a box to be kept by the Clerk for that purpose. This box shall be securely locked and sealed, and only opened at the time and for the purpose of drawing jurors. The list of jurors and the box, as thus made up, shall be the list and box out of which jurors shall be drawn, until the organization of the townships is effected and the jury list therefor is made up, and one term of the Court thereafter.

facias.

SEC. 7. The County Clerk, in the presence of the County Commissioners, or any one of them—if they or any one of them, on notice, fail to attend, then in the presence of the Sheriff of the County—shall, at the time mentioned in Section 8 of said Act for issuing writs of venire facias for jurors, and in the manner provided, Selectmen and Town Clerks in Section 14 of said Act, proceed to draw the jurors and issue writs of venire therefor.

A. D. 1869.

SEC. 8. All Acts or parts of Acts relative to the qualifications and manner of drawing jurors heretofore passed, except the Act to which this is an amendment, are hereby repealed.

Approved March 23, 1869.

AN ACT TO MAKE APPROPRIATIONS AND RAISE SUPPLIES FOR THE YEAR COMMENCING IN OCTOBER, ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT.

No. 156.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the following sums be, and they are hereby, appropriated for the payment of the various officers and expenses of the State Government, that is to say: For salaries: For the Governor, three thousand five hundred dollars; for the Secretary of State, three thousand dollars; for the Private Secretary of the Governor, two thousand dollars; for the Adjutant and Inspector-General, twenty-five hundred dollars; for the Assistant Adjutant and Inspector-General, fifteen hundred dollars; for the Comptroller-General, three thousand dollars; for the State Treasurer, twenty-five hundred dollars: for the chief clerk to the State Treasurer, eighteen hundred dollars; for the Auditor of the State, twenty-five hundred dollars; for Superintendent of Education, twenty-five hundred dollars; for the Chief Constable, fifteen hundred dollars; for the Chief Justice of the Supreme Court, four thousand dollars; for the two Associate Justices, seven thousand dollars; for the eight Circuit Judges, twenty-eight thousand dollars; for the eight Circuit Solicitors, eight thousand dollars; for the three Chancellors, to January 1, 1869, fifteen hundred dollars; for the Attorney-General, three thousand dollars; for the Attorney-General's clerk, one thousand dollars; for the Clerk of the Supreme Court, fifteen hundred dollars; for State Reporter, fifteen hundred dollars; for the Keeper of the State House, three hundred dollars; for the Superintendent of the South Carolina Penitentiary, two thousand dollars; for the State Librarian, four hundred dollars; for the three Health Officers, three thousand nine hundred dollars; for the County Auditors, thirty-one thousand five hundred dollars; for two watchmen for the State House and Grounds, nine hundred dollars; for arrearages of salary due Judge Thomas W. Glover, one thousand dollars.

Appropria-

SEC. 2. Executive Department: For contingent fund of the Governor, twenty-five thusand dollars, out of which shall be paid the expenses of Department. the Bureau of Agricultural Statistics, to be drawn upon the order of the Governor; for the contingent fund of the Treasurer, fifteen hundred dollars; for fire-proof safes for Treasurer and Comptroller-General, three thousand dollars; for contingent fund of the Comptroller-General, one thousand five hundred dollars; for contingent fund of the State Auditor, one thousand dollars; for contingent fund of the Adjutant and Inspector-General, one thousand five hundred dollars; for the contingent fund of the Superintendent of Education, fifteen hundred dollars; for the con-

Executive

tingent fund of the Secretary of State, one thousand dollars; for contingent fund of the Chief Constable, five hundred dollars; for the contingent fund of the Legislative Library, two hundred dollars; to fence and improve the grounds about the Governor's Mansion, fifteen hundred dollars. The above appropriations to be drawn upon the order of the heads of the several departments, if so much be necessary.

Judiciary.

SEC. 3. Judiciary Department: For purchase of books for the Supreme Court Library, one thousand dollars, to be paid on the order of the Chief Justice; for contingent expenses of Supreme Court, under Section 7 of an Act ratified the eighteenth day of September, 1868, two thousand dollars.

Civil ex-

SEC. 4. Ordinary Civil Expenses: For contingent accounts, seventy thousand dollars, out of which shall be paid the expenses of tax notices, assessment books, and other forms for the whole State, to be paid by the Treasurer, on the warrant of the Comptroller-General; Provided, No accounts for cost on tax executions returned nulla bona shall be paid out of this appropriation, except on the warrants of the Comptroller-General, already drawn; for the pay of County School Commissioners, twenty thousand dollars, if so much be necessary; for support of Lunatic Asylum, sixteen thousand dollars; for deficiency in appropriation of eighteen hundred and sixty-seven for the support of the Lunatic Asylum, four thousand five hundred dollars; for the education of the deaf, dumb and blind, three thousand dollars, to be drawn on the order of the Governor; for deficiency in appropriation of eighteen hundred and sixty-seven for construction of South Carolina Penitentiary, twelve thousand three hundred dollars, and for continuing the construction of South Carolina Penitentiary, and other expenses incidental thereto, seventy-five thousand dollars, if so much be necessary, to be paid on the order of the Governor; for quarantine expenses, three thousand dollars—accounts to be approved by the Governor, and paid on the warrant of the Comptroller-General; for transportation and clothes for discharged convicts from the South Carolina Penitentiary, fifteen hundred dollars; for permanent printing, twelve thousand dollars, if so much be necessary; for the Catawba Indians, twelve hundred dollars, to be paid upon the order of the Governor.

State Police.

SEC. 5. For payment of State Police, ten thousand dollars, if so much

be necessary.

Educational.

SEC. 6. Educational Department: For the support of Free Schools, fifty thousand dollars, in addition to the amount raised by the capitation tax, to be apportioned to the several Counties, in conformity to Section 5 of Article X of the Constitution; for the pay of the Professors in the University of South Carolina, twenty-two thousand dollars, if so much be necessary; for one demonstrator of anatomy, one thousand dollars; for a Librarian, Treasurer and Secretary of the Faculty, fifteen hundred dollars; for the Bursar and Marshal, five hundred dollars; for insurance and repairs of the University buildings, eighteen hundred dollars; all of which shall be paid upon the order of the Governor.

SEC. 7. For the payment of the interest on the public debt, accrued

since the same was last funded, five hundred thousand dollars.

SEC. 8. Military Expenses: To defray the expenses of enrollment, organization and equipment of the militia, twenty thousand dollars, if so much be necessary, to be paid on the order of the Governor.

SEC. 9. For the payment of the salaries of the Commission to codify the laws of the State, ten thousand five hundred dollars. All contingent expenses connected therewith and allowed by law shall be paid out of the contingent fund of the State, upon the order of the Comptroller-General.

A. D. 1869.

SEC. 10. That all taxes assessed and payable under this Act shall be Kipaid in the following kinds of funds, viz.: The Bills Receivable of the funds. State, United States currency, National Bank notes, gold and silver coin.

Kind of funds.

SEC. 11. The Auditor of the State is hereby authorized and directed to levy, and cause to be collected, a sufficient per centum of taxes, to raise a necessary amount of money, upon the assessed valuations of the property of the State, to meet the appropriations enumerated in this Act: Provided, There shall not be assessed and collected, under the provisions of this Act, an amount exceeding one million dollars.

Taxes.

Approved March 23, 1869.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PREVENT PER-SONS HOLDING CERTAIN OFFICES OF EMOLUMENT FROM LEAVING THE STATE." No. 157.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to prevent persons holding certain offices of emolument from leaving the State," ratified the thirteenth day of March, in the year of our Lord one thousand seven hundred and eighty-nine, be, and the same is hereby, repealed.

Repeal of Act.

Approved March 23, 1869.

AN ACT TO INCORPORATE THE DORN MINING AND MANUFACTUR-ING COMPANY OF SOUTH CAROLINA, FOR MINING AND OTHER PUR-POSES. No. 158.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Cyrus H. McCormick, Robert M. Funkhouser, of New York, and Henry R. Casey, of Georgia, and such persons as now are or may become hereafter associated with them, their successors and assigns, be, and they are hereby, constituted a body corporate and politic, by the name and style of the Dorn Mining and Manufacturing Company, by which name they are hereby made capable in law to have, hold, purchase, receive, work, sell, mortgage, lease, enjoy and retain to them, their successors and assigns, lands, tenements, mines of all characters, and chattels of whatsoever kind, as may be deemed by them most conducive to the objects and interest of said corporation, which are mining and working for gold and other minerals, and manufacturing the same in Abbeville County, and other parts of South Carolina, and of sending the same to market.

Corporators.

Objects.

A. D. 1869. Powers.

SEC. 2. That said corporation, by its title aforesaid, may sue and be sued, plead and be impleaded, in any Court of this State, make and use a common seal, altering the same at their pleasure; establish, alter and amend such by-laws and regulations as shall be deemed proper by them, not in conflict with the Constitution or laws of this State or the United States.

Capital stock.

Sec. 3. The capital stock of said company shall be five hundred thousand dollars, with the right to increase the same by a vote of a majority of the stockholders to any sum not exceeding one million of dollars; that said company shall commence business as soon as its capital stock is fully subscribed, and one hundred thousand dollars of the same paid up, which stock may be paid either in money or real estate, the same to be divided into such number of shares as said corporation may determine, said shares to be assignable and negotiable under such rules as said corporation may prescribe.

Annual meetings.

Sec. 4. That there shall be annual meetings of the stockholders, at such time and place as they may designate, for the purpose of choosing a Board of Directors, to consist of not less than five nor more than nine, each of whom shall be a stockholder, and a President and other officers of said corporation, to manage its affairs.

Offices.

SEC. 5. That said company shall keep an office at their principal mine in Abbeville County, which, for all judicial purposes, shall be deemed its location, and also one in the city of New York, if they choose, and all meetings of stockholders and Directors may be held at such place, in or out of this State, as may be directed by the by-laws of the company.

Roads.

Sec. 6. Said company are authorized to construct and use such wagon road, train road or railroad as may be deemed by them necessary for the successful mining of their lands, and the carrying on of their business over and along public roads, the same not obstructing the said roads, and on private property, subject to such damages or compensation to the owners of such other lands as are reasonable and just in view of the advantages and disadvantages to such owners of such operations, to be ascertained and payment thereof enforced as follows: The owner or owners of said lands to appoint one arbitrator, the Dorn Mining and Manufacturing Company to appoint one, the Justices of the Peace of the County to select a third, all being freeholders of said County, and the three, upon an examination of such property, and consideration of such evidence as may be adduced before them, shall, in view of all the facts, and of the advantages and disadvantages resulting to the owners of such lands, assess just and reasonable damages arising from such acts of said company. In the event of the neglect or refusal of either party to appoint an arbitrator, or in any case, from any cause, they fail to make an award, a majority of the said Justices of the Peace of the County where said land lies, shall, upon application of said company, appoint arbitrators, who shall assess the damages as above provided; and the arbitrators selected in either of these ways, all being freeholders of said County, shall return their award into the Clerk's office of the Supreme Court of said County, upon which award said Clerk shall issue an execution against said company for the damages and costs, which may be collected without any reference to any stay or relief law; said award to be final and conclusive between the parties, upon payment of which, with the costs, either to such owner or into said Clerk's office by said company, they may enter upon such property and proceed with said work.

Sec. 7. That all the property, real and personal, of said company shall be liable for its debts, and the private property of the stockholders shall be liable for the debts of the company to the amount of stock subscribed and not actually paid in money or in property at the time of the commencement of any suit against them.

A. D. 1869. Liabilities.

SEC. 8. That this Act shall continue in force for thirty years from and after its passage, and the privileges and franchises granted by this charter shall not be withdrawn for ten years after the passage of this Act.

Approved March 23, 1869.

AN ACT to provide for the conversion of State Securities.

No. 159.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer is hereby authorized, on the application of any person holding stock of the State issued. of South Carolina, to take the same, and issue in lieu thereof coupon bonds of said State, signed by the Governor, and countersigned by the Treasurer of the State, in sums of one hundred dollars, five hundred dollars and one thousand dollars, bearing six per cent. interest, the same as said stock; said interest to be paid semi-annually, and the principal within twenty years; and both principal and interest to be payable at the Financial Agency of the State of South Carolina, in the city of New York.

Coupon bonds to be

SEC. 2. That the State Treasurer is hereby authorized, on the application of any person holding coupon bonds of the State of South Carolina, to take up the same, and issue in lieu thereof stock of said State, signed by the Governor and countersigned by the Treasurer of the State, in sums of one hundred, five hundred and one thousand dollars, bearing the same rate of interest as the bonds so taken up, and both principal and interest to be payable at the Financial Agency of the State of South Carolina, in the city of New York.

Substitute.

SEC. 3. That it shall be lawful for the Treasurer to charge and receive for each certificate of stock or bond exchanged, as provided in the first and second Sections of this Act, one dollar, to be appropriated to his own use, and a further sum of fifty cents for each blank used in the transaction, said sum to be for the use and benefit of the State of South Carolina.

Fees.

Approved March 23, 1869.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO DEFINE THE JURISDICTION, AND REGULATE THE PRACTICE OF PROBATE COURTS."

No. 160.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section twenty-three of the Act Amendment. entitled "An Act to define the jurisdiction and regulate the practice of Probate Courts" be amended by inserting between the words "any" and "order," in the first line, the word "final.

Approved March 23, 1869.

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A. D. 1869. AN ACT TO PROVIDE FOR AN ELECTION TO FILL CERTAIN VACAN-CIES IN COUNTY OFFICES.

No. 161.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and Elections by the authority of the same, That the Governor be, and is hereby, authorized. authorized and requested, within thirty days from and after the passage of this Act, to order an election for the purpose of filling each and every vacancy in the various County offices throughout the State, which has occurred by reason of death, resignation, or inability to serve, or from any

> SEC. 2. That the said election shall be conducted, except so far as relates to three days' registration, in accordance with the provisions of an Act entitled "An Act providing for the next general election, and the manner of conducting the same," passed the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and sixtyeight.

Approved March 23, 1869.

AN ACT TO ALTER AND AMEND THE CHARTER OF THE TOWN OF No. 162. GREENVILLE, AND FOR OTHER PURPOSES.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Corporation. Assembly, and by the authority of the same, That from and immediately after the passage of this Act, all and every person or persons who are constitutionally qualified to vote for members of the General Assembly of this State, and who may have resided within the present corporate limits of the town of Greenville for sixty days, and their successors, and those also who now reside and may have resided for sixty days within a circuit of one-fourth of a mile from said corporate limits, and their successors, are hereby declared members of the corporation hereby intended to be created.

Powers.

Sec. 2. That the said persons and their successors shall, from and after the passage or this Act, become a body corporate and politic, and shall be known and called by the name of the city of Greenville, shall have a common seal, may sue and be sued, implead and be impleaded, in any Court of Law or Equity in this State, and may purchase, hold, possess and enjoy to them and their successors, in perpetuity or for any term of years, any estate, real, personal or mixed; and its corporate limits shall extend one and one-fourth miles in every direction from the court house as a centre.

Officers.

SEC. 3. That the municipal powers of said city shall be, and are hereby, vested in a Mayor and six Aldermen, to be chosen as hereinafter mentioned and directed, who shall be denominated the Mayor and Aldermen of the city of Greenville, and shall be persons who actually reside within the limits of the said corporation, and have so resided for at least sixty days immediately preceding their election.

Elections.

Sec. 4. That on the second Monday in September of each year, an election for Mayor and Aldermen shall be held at such convenient place

or places within said city as may be designated by said Mayor and Aldermen, at which elections all such persons as have been hereinafter declared members of the said corporation shall be entitled to vote by general ballot: Provided, That no person shall be allowed to vote at any such election who shall not have registered his name as a voter with the City Clerk, in a book or books to be kept by him for that purpose, at least thirty days before every such election: And provided, That the present Intendant and Wardens of the town of Greenville shall be Mayor and Aldermen, respectively, of the said city of Greenville during the balance of their present term of office.

SEC. 5. That the Mayor and Aldermen, to be elected as above directed, before they enter upon the duties of their office, shall, in addition to the fice. oath prescribed in Section 30 of Article II of the Constitution, take the following oath, to-wit: "I (Mayor or Alderman of the city of Greenville,) do solemnly swear (or affirm, as the case may be,) that I will equally and impartially, to the best of my skill and judgment, exercise and discharge the trust reposed in me, and will endeavor to carry into effect the purposes for which I have been elected. So help me God." And that the said Mayor and any four or more of the Aldermen shall constitute a quorum to do the business of the Board; and in case of the death, resignation or removal from town of the Mayor aforesaid, the said Aldermen, or a majority of them, shall elect from among themselves a Mayor to fill such vacancy occasioned as aforesaid; and that in case of death, removal from office or resignation of any of the said Aldermen, then, and in such case, the Mayor and any two or more of the said Aldermen shall appoint a time and place for electing another Alderman to fill the vacancy so occasioned, after having given five days' previous notice of such election.

SEC. 6. That the Mayor may, as often as occasion requires, summon the Aldermen to meet together; and the said Mayor and Aldermen shall have, and they are hereby vested with, full and ample power, from time to time, under their common seal, to make all such ordinances, rules and regulations relative to the streets and markets of the said city as they may think proper and necessary, and establish such by-laws as may tend to preserve the quiet, peace, safety and good order of the inhabitants thereof not inconsistent with the Constitution and laws of the State; and that they may impose fines and penalties for the violations thereof, which may be recovered in a summary way before the said Mayor and Aldermen, as hereinafter provided, who, and each and every one of whom, shall be Magistrates ex officio within the limits of the said city, and shall otherwise be vested with all power and authority that Magistrates are vested with throughout the State: Provided, nevertheless, That all such ordinances, by-laws, rules and regulations so made be duly promulgated, and that no such fine, in any one case and for any single offence, exceed the sum of fifty dollars.

Sec. 7. That when any fine imposed by the said Mayor and Aldermen by virtue of this Act shall exceed twenty dollars, the same may be recovered before any Magistrate or Justice of the Peace for Greenville County; and when such fine shall be for twenty dollars or under, they may be recovered before the said Mayor and Aldermen or any three of All which fines, when recovered, shall be applied to the use of said city.

SEC. 8. The said Mayor and Aldermen of said city, in addition to all Exhibitions.

Oath of of-

A. D. 1869.

Quorum.

Vacancies.

Meetings.

By-laws.

Fines.

Recovered.

such fines and penalties as may be incurred and recovered, and all licenses for taverns, for sales at auction, public shows, and for wholesale and retail dealers in liquors within said city, all of which the said Mayor and Aldermen, or a majority of them, shall have the right to grant, in their discretion, shall, annually, levy on the assessed property of the city a tax sufficient to discharge and defray all expenses of carrying into effect the

Taxation.

ordinances, rules, regulations and laws made and established as above provided: Provided, Said tax does not exceed fifty cents upon every one hundred dollars' worth of real and personal property as assessed and

equalized.

Ordinances.

SEC. 9. That the Mayor and Aldermen are hereby authorized and empowered to make such ordinances as they may deem expedient in relation to licensing persons who are, or may be, engaged in and carrying on any business within their corporate limits: Provided, That no ordipance shall be made inconsistent with the Constitution of this State and laws of the land.

Treasurer.

SEC. 10. That the said Mayor and Aldermen are hereby authorized to appoint a Treasurer to collect the taxes imposed under and by virtue of this Act; and it shall be the duty of the said Treasurer to collect the same, and for this purpose he shall have and exercise all the powers conferred upon County Treasurers. All property upon which a tax shall be assessed is hereby declared and made liable for the payment thereof in preference to other debts due by the person owning the property at the time of the assessment, except debts and taxes due to the State, which shall be first paid.

Executions.

SEC. 11. That the Mayor and Aldermen of the said city be, and are hereby, authorized and empowered to issue an execution against the body of every person for any sum of money imposed by way of fines against whom an execution against the property of such person shall have been previously issued for the same, and a return therein made by a marshal of said city, or the Sheriff of Greenville County, on oath, that no property of such person could be found wherewith to satisfy said execution, and, upon the arrest of such person, he is hereby entitled to have the benefit of the prison bounds Act before a Magistrate instanter, upon notifying the Mayor thereof.

Foundries.

Sec. 12. That the said Mayor and Aldermen shall have power to prohibit the building and working of any blacksmith shop, forge, furnace or

foundry on Main street, or in any other public part of the city.

Mayor pro

Sec. 13. That in case of the sickness or temporary absence of the said Mayor, the said Aldermen, or any five of them, may select from amongst themselves a Mayor pro tempore to act as Mayor during such sickness or temporary absence, and said Mayor pro tempore, and any four or more of

said Aldermen, shall constitute a quorum to do business.

Scales.

SEC. 14. That the said Mayor and Aldermen of the said city of Greenville are hereby authorized and empowered to establish and keep up one or more public scales or scale houses, with proper scales and weights, for weighing cotton and other articles sold by weight in the said

city, by and at the expense of the said city.

Weighers.

Sec. 15. That the said Mayor and Aldermen be, and they are hereby, authorized to appoint one or more public weighers, who shall be sworn by the said Mayor faithfully to perform the duties of said office, and who shall be removable for misconduct or incompetency by said Mayor and

Aldermen; and when reference is had to any of the public scales used by said weighers by the authority of said Mayor and Aldermen, on the same day that the contract of sale is made, the certificate of the public weigher shall be conclusive evidence of the weight of the cotton, or any other article sold by weight, in any Court of Justice in which an action shall be pending, touching the weight of such article, and the said Mayor and Aldermen are hereby authorized to assess a sum not exceeding six cents on each bale of cotton, and a proportional sum on other articles weighed, to be paid by the seller, for the use of said city.

SEC. 16. That the public scales and weights established in pursuance of this Act shall be the standard to which all others in the said city shall conform; and if any person shall use, in weighing any article whatsoever sold in said city, weights and scales differing from the said standard, such person, on conviction in the Court of Sessions for Greenville County, shall be fined and imprisoned at the discretion of the

Court. Sec. 17. That the Mayor and Aldermen of the said city of Greenville be, and they are hereby, authorized and empowered to regulate the sales at auction within the limits of the said city, and to grant licenses to auctioneers: Provided, That nothing herein contained shall extend to sales by or for Sheriffs, Coroners, executors or administrators, or by any other person under the order of any Court or Magistrate.

SEC. 18. That the Mayor and Aldermen of the city of Greenville be, and they are hereby, authorized to borrow money by issuing city debts. stocks, from time to time, to the amount of one hundred thousand dollars, if so much be necessary, to pay the extraordinary expenditures of said city, but never in any form to make the city liable for exceeding that amount in the aggregate: Provided, That the private property of the citizens of the said city of Greenville shall not be liable, in law or in equity, for the payment of the corporate debts that shall or may be created under the granted powers herein made, or in any other mode than by a regular and uniform taxation.

Sec. 19. All Acts or parts of Acts inconsistent with or supplied by

this Act are hereby repealed. Approved March 23, 1869.

AN ACT TO DEFINE THE DUTIES OF STATE REPORTER, AND TO PRO-VIDE FOR THE PUBLICATION OF THE SUPREME COURT REPORTS.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Reporter of the Supreme Court appointed according to the provisions of Article IV, Section 7, of the Constitution, shall, before entering upon the duties of his office, take and subscribe the oath of office before the Clerk of the Supreme Court.

SEC. 2. That it shall be the duty of the Justices of the Supreme Court to prepare and deliver to the Reporter full notes of all decisions made by Judges. them, which they shall deem of sufficient importance to publish.

A. D. 1869.

Standard.

Auctions.

Corporate

No. 163.

Oath.

Sec. 3. That the Reporter shall faithfully and truly prepare all such decisions for publication; and when, in the opinion of the Court, it shall Duty of Re- be necessary for a proper understanding of the decision, he shall report porter. therewith a brief statement of the case and argument.

Reports to be printed.

Proviso.

to constitute a volume of not less than five hundred pages, it shall be the duty of the Reporter to procure to be printed and published, in a neat and substantial manner, of ordinary law size, an edition of five hundred (500) copies of such report: Provided, That they shall be printed by the State Printer at prices paid as per the contract made for printing for the General Assembly. Upon the completion of such publication the Comptroller-General shall draw his warrant upon the Treasury of the State for the cost of publication.

Sec. 4. That as often as the decisions of said Court shall be sufficient

Delivered to State. Exchanges.

Sec. 5. That the whole edition, when published, shall be delivered to Secretary of the Secretary of State, who shall retain one hundred (100) copies of the same, to be distributed as hereinafter required. He shall exchange copies of each volume, if practicable, for such reports, or other works on Law and Equity, as the Justices of the Supreme Court shall designate, which works shall be placed in the Library of the Supreme Court. He shall offer the remainder of such editions for sale, at a price not to exceed three and one-half dollars per volume, the proceeds of which sale shall be placed in the Treasury.

Copyright.

SEC. 6. That the copyright of all volumes of reports published in accordance with this Act, shall be vested in and remain the property of the State.

Salary.

SEC. 7. That the annual salary of the Reporter of the decisions of the Supreme Court shall be fifteen hundred (1500) dollars, to be paid quarterly, as the salaries of other public officers are.

SEC. 8. That all Acts and parts of Acts repugnant hereto are hereby

repealed.

Approved March 23, 1869.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO FIX THE SAL-No. 164. ARY AND REGULATE THE PAY OF CERTAIN OFFICERS," RATIFIED THE TWENTY-SIXTH DAY OF SEPTEMBER, 1868.

Amendment.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That so much of the above Act as fixes the salary of the Private Secretary of the Governor at fifteen hundred (1,500) dollars per annum be amended by striking out "fifteen hundred (1,500) dollars," and inserting in lieu thereof "two thousand (2,000) dollars," and by adding the State Auditor, whose salary shall be twentyfive hundred (2,500) dollars per annum, who shall also be authorized to employ a clerk, at the rate of one thousand dollars per annum.

Sec. 2. This Act shall take effect from the first day of November,

1868.

Approved March 25, 1869.

AN ACT TO RENEW AND AMEND THE CHARTER OF THE TOWN OF CHESTER.

A. D. 1869. No. 165.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passage of this Act, all citizens of this State having resided sixty days in the town of Chester shall be deemed, and are hereby declared to be, a body politic and corporate; and the said town shall be called and known by the name of Chester, and its corporate limits shall extend one mile in each direction from the court house in said town.

Incorpora-

SEC. 2. That the said town shall be governed by an Intendant and four Wardens, who shall be citizens of the United States, and shall have been residents of the said town for sixty days immediately preceding their election, who shall be elected on the second Monday in January in every year, ten days' public notice thereof being previously given; and that all male inhabitants of the age of twenty-one years, citizens of the State, and who shall have resided in the said town for sixty days immediately preceding the election, shall be entitled to vote for said Intendant

Officers.

Electors.

and Wardens.

Election.

Sec. 3. That the election for Intendant and Wardens of the said town shall be held in the court house, or some other convenient public place in the said town, from nine o'clock in the morning until five o'clock in the afternoon; and when the polls shall be closed, the Managers shall forthwith count the votes and proclaim the election, and give notice, in writing, to the persons elected. The Intendant and Wardens shall appoint three Managers to hold the ensuing and any subsequent election. Whenever there shall not be an Intendant and Wardens, or Intendant and Warden, from any cause whatever, it shall be the duty of the Clerk of the Court for Chester County to order such election forthwith, and appoint three Managers for the same. The Managers, in each case, shall, before they open the polls for said election, take an oath fairly and impartially to conduct the same. And that the Intendant and Wardens, before entering upon the duties of their respective offices, shall take the oath prescribed by the Constitution of this State, and also the following oath, to-wit: "As Intendant (or Warden) of the town of Chester, I will, equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected: So help me God." The said Intendant and Wardens shall hold their offices from the time of their election until the second Monday in January ensuing, and until their successors shall be elected and qualified.

Oath.

Vacancy.

SEC. 4. That in case a vacancy should occur in the office of Intendant or any of the Wardens, by death, resignation, removal, or otherwise, or in case of a tie in said election, an election to fill such vacancy shall be held by the appointment of the Intendant and Wardens or Warden, as the case may be, or the Clerk of the Court of Chester County, if there should be no Intendant or Wardens, ten days' public notice thereof being previously given, and in case of the sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their number to act in his stead during the time.

Sec. 5. That the Intendant and Wardens duly elected and qualified shall, during their term of service, severally and respectively, be vested Jurisdiction. with all the jurisdiction and powers of Magistrates within the limits of the said town. And the Intendant shall and may, as often as he may deem necessary, summon the Wardens to meet in Council, any two of whom, with the Intendant, may constitute a quorum to transact business; and they shall be known by the name of the Town Council of Chester, and they and their successors hereafter to be elected may have a common seal, which shall be affixed to all the ordinances. And the said Town Council shall have authority to appoint, from time to time, as they may see fit, such and so many proper persons to act as Marshals or Constables. Constables of said town as the said Town Council may deem necessary and expe-

Powers.

dient for the preservation of the peace, good order and police thereof, which persons, so appointed, shall, within the corporate limits of said town, have the power, privileges and emoluments, and be subject to all the obligations, penalties and regulations provided by law for the office of Constable, and shall be liable to be removed at the pleasure of said Council. And the said Town Council shall have power to establish or to authorize the establishment of the market house in said town. And the said Town Council shall have full power and authority, under their corporate seal, to make all such rules, by-laws and ordinances, respecting the streets, roads, market house and the business thereof, and the police system of the said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for preserving health, order and good government within the same. And the said Town Council may impose fines for offences against their by-laws and ordinances, and appropriate the same to the public use of said town; and the said Council shall have the same power which Magistrates now have to compel the attendance of witnesses and requiring them to give evidence upon the trial before them of any person for a violation of any of their by-laws or ordinances, but no fine above the sum of twenty dollars shall be collected by the said Council, except by suit in the Court of Common Pleas: And provided, also, That no fine shall exceed fifty dollars; and also that nothing herein contained shall authorize the said Council to make any by-laws or ordinances inconsistent with or repugnant to the laws of this State; and all the by-laws, rules and ordinances the said Council may make shall, at all times, be subject to revisal or repeal by the General Assembly of this State. SEC. 6. That the said Intendant and Wardens shall have full power

Nuisances.

Duties.

to abate and remove nuisances in the said town; and it shall also be their duty to keep all roads, ways and streets within the corporate limits of the said town open and in good repair, and for that purpose they are invested with all the powers heretofore granted to Commissioners of Roads; and shall have full power to classify and arrange the inhabitants of said town liable to street, road, or other public duty therein, and to force the performances of such duty under such penalties as are now, or shall hereafter be, prescribed by law: Provided, That the said Town Council may compound with persons liable to perform such duty upon such terms and on the payment of such sums as may be established by laws or ordinances: And provided, also, That the individuals who compose the said Town Council shall be exempt from the performance of road and police duty, and the inhabitants of said town are hereby exempt from road and police duty without the corporate limits of said town.

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SEC. 7. That the power to grant or refuse license for billiard tables, to keep tavern, or to retail spirituous liquors within the limits of said corporation be, and the same is hereby, vested in the Town Council of Chester, and the said Council may grant licenses to retail spiritous liquors to such persons, and in such quantities, at such rates, and upon such terms and conditions, as the said Council may deem fit and proper; and the said Intendant and Wardens shall have the full and only power to impose a tax on all shows or exhibitions, for gain or reward, within the limits. And all money paid for license for retailing spirituous liquors, keeping tavern, and billiard tables, and the tax on all shows for gain or reward, within the said limits, shall be apppropriated to the public use of said corporation.

SEC. 8. That the said Town Council of Chester shall have power and authority to require all persons owning a lot or lots in said town to make and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any of the public streets of said town, if, in the judgment of the Council, such sidewalks shall be necessary; the width thereof, and the manner of their construction, to be designated and regulated by the Town Council; and for default or refusal to make and keep in repair such sidewalks, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing: Provided, That such contract for making or repairing

be let to the lowest bidder.

SEC. 9. That the said Town Council of Chester shall have power to ar- Disorderlies. rest and commit to jail, for a space of time not exceeding twelve hours, and to fine, not exceeding twenty dollars, any person or persons who shall be guilty of disorderly conduct in said town, to the annoyance of citizens thereof; and it shall be the duty of the marshal of the town to make such arrest, and to call to his assistance the posse comitatus, if necessary, and upon failure to perform said duty, he shall be fined in a sum not exceeding twenty dollars for each and every offence.

SEC. 10. That the said Town Council of Chester shall have power to grant or refuse licenses to parties within the limits of said town, and the parties to whom such licenses are granted shall be subject to such regulations as may by ordinance be established. They shall also have power to impose and collect an annual tax upon the assessed property of said town: Provided, No tax shall be imposed in any one year to exceed the rate of ten cents on each hundred dollars of such assessed property, and that the money so raised shall be applied to the use of said town. The said Town Council shall have the power to enforce the payment of all taxes levied by the said Town Council, to the same extent and in the same manner as is now or hereafter shall be provided by law for the collection of the gen-

SEC. 11. That the said Town Council of Chester shall have power to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: Provided, Nothing herein contained shall extend to sales by a Sheriff, Clerk of the Court, Judge of Probate, Coroner, executor or administrator, assignee in bankruptcy, or by any other person out of the order, decree of any Court, Justice of the Peace, or Magis-

SEC. 12. That this Act shall be deemed a public Act, and shall continue of force for twenty years, and till the end of the session of the GenA. D. 1869. Licenses.

Sidewalks.

Tax.

Auctions.

Court.

A. D. 1869. eral Assembly of said State then next following, and all Acts of incorporation or amendments thereof repugnant hereto are hereby repealed. Approved March 26, 1869.

AN ACT TO PROVIDE FOR THE PLACE OF HOLDING COURT IN BARN-WELL COUNTY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, Whenever, pursuant to the provisions Place of of an Act to change the location of the County seat of Barnwell County holding from Barnwell Court House to Blackville, ratified the second day of March, A. D. 1869, the Governor shall issue his proclamation announcing a change of the County seat of Barnwell County from Barnwell Court House to the town of Blackville, the Courts of Sessions and Common Pleas for said County of Barnwell shall thereupon and thereafter be held at the town of Blackville, at the same times heretofore provided by law for the holding of said Courts in said County.

Approved March 26, 1869.

AN ACT TO VEST IN ISAAC G. LONG THE CHARTER OF A WATER No. 167. COURSE THROUGH KINGSTON LAKE AND MAPLE SWAMP, IN HORRY COUNTY.

> Whereas a number of residents in the vicinity of Kingston Lake and Maple Swamp, in Horry County, have petitioned the General Assembly that a charter be granted to Isaac G. Long, vesting in him certain powers

> and privileges therein set forth; therefore, Section 1. Be it enacted by the Senate and House of Representatives of

the State of South Carolina, now met and sitting in General Assembly, and by Authority the authority of the same, That Isaac G. Long be, and he is hereby, authorized and empowered to open a water course through Kingston Lake and Maple Swamp, from the head waters of the same as far as to the road leading from Conwayboro, South Carolina, to Fair Bluff, North Carolina. a distance of about twenty miles, for the purpose of floating timber, and getting the same to market.

SEC. 2. That the said Issac G. Long shall have and enjoy the exclusive Exclusive right.

charter, with the right of way through Kingston Lake and Maple Swamp, for the purpose mentioned in Section one of this Act, with the privilege of charging and receiving fifty cents for each stick of timber floated by any other person on said water course, as compensation for cutting and

clearing out said Lake and Swamp: Provided, That the said Isaac G. Long shall first enter into recognizance with the County Commissioners of Horry County, in the sum of two thousand dollars, with two good sureties, conditioned to clear out as much as four miles each year, for five

Toll. Bond. years, of the said water course, or to complete the whole work within five A.D. 1869. years from the ratification of this Act.

SEC. 3. That this Act shall remain of force for the term of twenty

Approved March 26, 1869.

AN ACT TO ESTABLISH CERTAIN FERRIES.

No. 168.

Ferry established.

Tolls.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That a ferry over Seneca River, at or near the site of Cherry's Bridge, in the County of Oconee, and on the road leading from Pendleton to Walhalla, be chartered and vested in George Cherry, his heirs and assigns, who shall be allowed the following rates of toll, to-wit: Four horse teams, fifty cents; three horse teams, forty cents; two horse teams, thirty cents; one horse team, twenty cents; ox teams, same as horse teams; horse and buggy, twenty-five cents; two horses and a buggy, forty cents; man on horseback, ten cents; foot passengers, five cents: loose horses and mules, five cents each; cattle, three This charter to remain in force cents; hogs, sheep and goats, two cents. for the term of seven years, or until the said bridge be rebuilt: Provided, that the Governor, Lieutenant-Governor, and his suite, ministers of the Gospel, and persons going to and returning from muster, shall be exempt from paying toll at the said ferry.

Sec. 2. That the charter of the ferry over the Waccamaw River, known as "Hemmingway's Ferry," on the main road leading from Conwayboro to Little River, be, and the same is hereby, renewed and extended for the term of fourteen years from the passage of this Act; and the right to collect tolls over the same is hereby vested in W. Hardy, his heirs, successors and assigns, who shall be allowed the same rates of toll as have

been heretofore established by law.

Sec. 3. That the ferry over the Great Pee Dee River at Mars Bluff, in the County of Marion, commonly called the Mars Bluff Ferry, the term of which is now expired, be, and the same is hereby, re-established, rechartered and vested in the heirs-at-law of Samuel F. Gibson, and their assigns, for the term of ten years, who shall be allowed the same rates of

toll as are now authorized by law.

Sec. 4. That the ferry over the Catawba River, known as Cureton's Ferry, on the main road leading from Lancaster Court House to Rock Hill and Yorkville, South Carolina, be, and the same is hereby, rechartered and vested in John Samuel Cureton, his heirs and assigns, for the term of ten years, with authority to charge the following rates of toll: For each wagon drawn by six horses, mules or oxen, one dollar; for each wagon drawn by four horses, one dollar; for each wagon drawn by three horses, fifty cents; for each wagon or carriage drawn by two horses, forty cents; for each buggy drawn by two horses, forty cents; for each buggy drawn by one horse, twenty-five cents; for each man on horseback, ten cents; for each loose horse, five cents; for cattle, each, three cents; for hogs and sheep, each, two cents; for each foot passenger, five cents.

Hemming-

Mars Bluff.

Cureton's.

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SEC. 5. That the ferry over the North Santee River, in the County of Georgetown, commonly called the North Santee Ferry, situated on the North San- direct road leading from Georgetown to Charleston, be, and the same is hereby, re-established, rechartered and extended for the term of fourteen (14) years from the passage of this Act; and the right to collect tolls over the same is hereby vested in Nathaniel Holmes, his heirs, successors and assigns, who shall be allowed the same rates of toll as have heretofore been established by law.

SEC. 6. All Acts or parts of Acts inconsistent with this Act be, and

the same are hereby, repealed.

Approved March 26, 1869.

No. 169. AN ACT TO EXTEND THE TIME IN WHICH THE CAMDEN BRIDGE COMPANY MAY REBUILD THEIR BRIDGE.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the time allowed to the Camden Bridge Company within which to complete the rebuilding of their bridge across the Wateree River by the statute passed December, A. D. one thousand eight hundred and sixty-five, and entitled "An Act to extend to the Camden Bridge Company the time within which to rebuild their bridge," be, and the same is hereby, extended to two years from the passage of this Act.

SEC. 2. That while the said bridge is so being rebuilt, the said company shall have the right to keep up and continue their ferry near said bridge, as now existing, with the same rates of toll as are now allowed at said

ferry by law.

Approved March 26, 1869.

No. 170.

AN ACT TO PREVENT AND PUNISH DUELING.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That every person who shall challenge another to fight at sword, pistol, rapier, or any other dangerous weapon, or who shall accept any such challenge, shall, for every such offence, on conviction thereof, be deprived of the right of suffrage, and be disabled forever from holding any office of profit or honor under this State, and shall be imprisoned in the Penitentiary for a term not exceeding two years, at the discretion of the Court.

Accessories.

SEC. 2. That every person who shall willingly or knowingly carry or deliver any such challenge, in writing, or verbally deliver any message intended as, or purporting to be, such challenge, or who shall be present at the fighting of any duel as a second or aid, or give countenance thereto, shall, for every such offence, on conviction thereof, be forever

disabled from holding any office of profit or honor under this State, and shall be imprisoned in the Penitentiary for a term not exceeding two years, at the discretion of the Court.

Approved March 26, 1869.

AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO IN-No. 171. CORPORATE THE VILLAGE OF KINGSTREE."

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to in- Amendment. corporate the village of Kingstree," approved on the nineteenth day of December, A. D. one thousand eight hundred and sixty-six, be, and the same is hereby, altered and amended as follows: That, from and after the passage of this Act, all and every person or persons who shall have resided within the corporate limits of the village of Kingstree for two months are hereby declared to be members of the corporation hereby to be created.

Sec. 2. That the said persons shall, from and after the passing of this Act, become a body politic and corporate, and shall be known and limits. called by the name of the "Town of Kingstree," and its corporate limits shall extend one mile in every direction from the court house as a centre, except on the side next to Black River, which river shall constitute the boundary in that direction.

Corporate

Sec. 3. That the said town shall be governed by an Intendant and four Wardens, who shall have resided in the State for one year, and within the limits of the corporation sixty days immediately preceding their election. The said Intendant and Wardens shall be elected on the second Monday in September in each year, ten days' notice being previously given, and shall continue in office for one year, and until the election and qualification of their successors; and all male inhabitants of said town who shall have attained the age of twenty-one years, and resided therein two months immediately preceding the election shall be entitled to vote for said Intendant and Wardens. Officers.

Voters.

Election.

SEC. 4. That said election shall be held in some convenient public place in said town from eight o'clock in the morning until four o'clock in the evening; and when the polls shall be closed, the Managers shall forthwith count the votes and declare the election, giving notice in writing to the persons elected. The Intendant and Wardens for the time being shall always appoint three Managers to conduct the election, who, before they open the polls for said election, shall take an oath fairly and impartially to conduct the same. And the Intendant and Wardens, before entering upon the duties of their offices, shall, respectively, take the oath prescribed by the Constitution of this State, and also the following oath, to-wit: "As Intendant (or Warden) of the town of Kingstree, I will, equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected. So held me God." And if any person, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay

Oath.

to the Town Council the sum of twenty dollars for the use of said town: Provided, That no person who has attained the age of sixty years shall be compelled to serve in either of the said offices, nor shall any other person be compelled to serve more than one year in any term of three years.

Vacancies.

SEC. 5. That in case a vacancy should occur in the office of Intendant or any of the Wardens, by death, resignation or otherwise, an election to fill such vacancy shall be held by the appointment of the Intendant and Warden or Wardens, as the case may be, ten days' previous notice being given; and in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their number to act as Intendant during the time.

Powers.

Sec. 6. That the Intendant and Wardens duly elected and qualified shall, during their term of service, severally and respectively, be vested with all the powers of Magistrates in this State within the limits of the said town, except for the trial of small and mean causes. And the Intendant shall and may, as often as may be necessary, summon the Wardens to meet in Council, any two of whom, with the Intendant, or any three Wardens, may constitute a quorum to transact business, and they shall be known by the name of the Town Council of Kingstree; and they and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all their ordinances; may sue and be sued, plead and be impleaded, in any Court of Law or Equity in this State, and purchase, hold, possess and enjoy to them and their successors, in perpetuity or for any term of years, any estate, real, personal or mixed, and sell, alien and convey the same: Provided, The same shall not exceed, at any Ordinances. one time, the sum of ten thousand dollars. And the Intendant and Wardens shall have full power to make and establish all such rules, by-laws

and ordinances, respecting the roads, streets, market and police of said town, as shall appear to them necessary and requisite for the security, welfare and convenience of the said town, or for preserving health, peace, order and good government within the same. And the said Council may fix and impose fines and penalties for the violation thereof, and appropriate the same to the public uses of the said corporation: Provided, That no fine shall exceed fifty dollars for any one offence.

Licenses.

SEC. 7. That the Intendant and Wardens of said town shall have full and only power to grant or refuse licenses to keep taverns or retail spirituous liquors, within the corporate limits of said town, upon such conditions and under such circumstances as to them shall seem proper and right: Provided, That in no instance shall the price of a license to keep a tayern or to retail spirituous liquors be fixed at a less sum than is established by the laws of the State; and all moneys paid for licenses and for fines and forfeitures for retailing spirituous liquors, keeping taverns and billiard tables, within the said limits without licenses, shall be appropriated to the public uses of said town: Provided, That the Intendant and Wardens, duly elected and qualified, shall not have power to grant any license to keep taverns or retail spirituous liquors to extend beyond the term for which they have been elected.

Working roads.

SEC. 8. That it shall be the duty of the said Intendant and Wardens to keep all roads, streets and ways within their corporate limits open and in good repair, and for that purpose they are invested with all the powers and duties of Surveyors of highways and Selectmen of towns.

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shall have power to compound with all persons liable to work the streets, ways and roads in said town, upon such terms as they shall, by ordinance, establish, the moneys so received to be applied to the public use of said town, and all persons refusing or failing to pay such commutation shall be liable to such fine, not exceeding twenty dollars, as the Town Council may impose.

A. D. 1869.

Taxes.

Sec. 9. They shall also have power to impose an annual tax, not exceeding twenty cents on every hundred dollars of the assessed value of all real and personal estate lying within the corporate limits of said town, the real and personal estate of churches and school associations excepted. The said Council shall have power to regulate the price of licenses upon all public shows and exhibitions in said town, to erect a powder magazine, and compel any person holding more than twenty-five pounds of powder to store the same therein, and to make regulations for rates of storage thereof, and for keeping and delivering the same. The said Council shall have power to enforce the payment of all taxes levied under the authority of this Act, against the property and persons of defaulters, to the same extent and in the same manner as is provided by law for the collection of the general State tax, except that executions to enforce the payment of the town taxes shall be issued under the seal of the corporation and directed to the Town Marshal or other person especially appointed by the said Town Council to collect the same; and all property upon which a tax shall be levied is hereby declared and made liable for the payment thereof in preference to all other debts against the said property, except debts due the State, which shall first be paid.

SEC. 10. That the said Town Council shall have power and authority to require all persons owning a lot or lots in said town to make and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any public street of said town, if in the judgment of the Council such sidewalk shall be necessary, the width thereof, and the manner of their construction to be designated and regulated by the said Council; and for default or refusal, after reasonable notice, to make and keep in repair such sidewalks, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing. And the said Town Council are hereby empowered to sue for and recover the same by action of debt in any Court of competent jurisdiction; Provided, That such contract for making or repairing be let

to the lowest bidder.

SEC. 11. That the said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within open roads. the said town as they may deem necessary, by sale of the freehold therein, either at private or public sale, as they may adjudge best for the interest of the said town; and they shall also have power to lay out, adopt, open and keep in repair all such new streets, roads and ways as they may, from time to time, deem necessary for the improvement and convenience of said town: Provided, That no new street, road or way shall be open without first having obtained the consent of the land owner or owners through whose premises any such new street, road or way may pass.

SEC. 12. That the said Town Council shall have power, and are hereby authorized, to elect one or more marshals, (in addition to the Sheriff of the County of Williamsburg, who shall also be a marshal of the town,) to fix their salaries and prescribe their duties, who shall be sworn in and

Sidewalks.

Close and

Marshals.

invested with all the powers, and subjected to all the duties and liabilities, that Constables now have or are subject to by law, in addition to the duties and liabilities specially conferred and imposed on them by the Town Council: *Provided*, That their jurisdiction shall be confined within the limits of said town.

Police.

SEC. 13. That the said Town Council shall have power to establish a guard house, and to prescribe, by ordinance, suitable rules and regulations for keeping and governing the same; and, until such guard house shall be established, they shall be authorized to use a room in the common jail of Williamsburg County for the confinement of all persons who may be subject to be committed for the violation of any ordinance of the town, passed in conformity to the provisions of this Act; and the said Town Council may, by ordinance, or the said Intendant and Wardens in person, any one or more of them, authorize and require any marshal of the town, or any Constable specially appointed for that purpose, to arrest and to commit to the said guard house or jail of Williamsburg County, as the case may be, for a term not exceeding twenty-four hours, any person or persons who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or in any conduct grossly indecent or dangerous to the citizens of said town, or any of them; and it shall be the duty of town marshals to arrest and commit all such offenders, when required so to do, who shall have power to call to their assistance the posse comitatus, if need be, to aid in making such arrests; and upon the failure of said marshals to perform such duty as required, they shall severally be subject to such fines and penalties as the Town Council may establish. And all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said cost and expenses shall be collected in the same manner as is provided by this Act for the collection of fines imposed for the violation of ordinances: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose for the offence for which he may have been committed.

Exhibitions.

Sec. 14. That the said Town Council shall have the power to collect the taxes from all persons representing publicly, within their corporate limits, for gain or reward, any plays or shows of what nature or kind soever, to be used for the purposes of said town.

Fines.

SEC. 15. That all fines which shall hereafter be collected for retailing without license within the corporate limits of said town shall be paid one-half to the informer and the other half to the Council, for the use of said town.

Nuisances.

Sec. 16. That the said Town Council shall have full power and authority to abate all nuisances within the corporate limits, and also to appoint a Board of Health for said town, and to pass such ordinances as may be necessary to define the powers and duties of said Board, and to impose fines and penalties upon the members of said Board for neglect of duty or refusal to serve: *Provided*, That no fine hereby authorized to be imposed shall exceed the sum of twenty dollars.

Borrow money.

Sec. 17. That the said Town Council shall have power to borrow money for the public use of the corporation by issuing, from time to time, as occasion may require, the bonds of the corporation, bearing interest at a rate not to exceed seven per centum per annum, to be paid semi-annually, for an amount not to exceed five thousand dollars; and for the

payment of the interest and the ultimate redemption of the principal, according to the terms of the loan, the said, corporation shall be at all times liable: Provided, That the private property of the inhabitants of said town shall be bound for the redemption of said loan in no other way than by the imposition of an annual tax, according to the provision of this Act.

A. D. 1869.

SEC. 18. That the Intendant and Wardens elect shall, during their Exemptions, term of office, be exempt from street duty. Each Town Council shall, within one month after the expiration of their term of office, make out and return to their successors a full account of their receipts and expenditures during their term, and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and other papers incident to their office to their successors; and on failure so to do, they shall be liable to be fined in a sum not exceeding one hundred dollars, to be collected in any proper action by the Town Council.

SEC. 19. That for any wilful violation or neglect of duty, malpractice, abuse or oppression, the said Intendant and Wardens, jointly and severally, shall be liable to indictment in the Court of Sessions, and, upon conviction, to punishment, as prescribed in the preceding Section, besides being liable for damages to any person or persons injured.

Neglect of

Sec. 20. That all ordinances heretofore passed by the Town Council of Kingstree, in conformity with the authority granted by such existing laws as do not conflict with the Constitution of the State, shall be, and they are hereby, declared legal and valid.

Sec. 21. That all Acts, and parts of Acts, heretofore passed in relation to the incorporation of the village of Kingstree be, and the same are

hereby, repealed.

Sec. 22. This Act shall be deemed a public Act, and continue in force for the term of fifteen years from the date of its ratification.

Approved March 26, 1869.

AN ACT TO REPEAL THE TENTH SECTION OF AN ACT ENTITLED "AN ACT TO APPOINT A BOARD OF COMMISSIONERS FOR THE CITY OF CHARLESTON, WITH POWER AND AUTHORITY TO DECLARE IN WHAT CASES THE STREETS, LANES AND ALLEYS SHALL BE WIDENED, AND TO PROVIDE FOR CARRYING INTO EXECUTION THE OBJECTS OF THE SAID Board, and for other purposes therein mentioned."

No. 172.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section 10 of an Act entitled "An Act to appoint a Board of Commissioners for the city of Charleston. with power and authority to declare in what cases the streets, lanes and alleys shall be widened, and to provide for carrying into execution the objects of said Board, and for other purposes therein mentioned," be, and the same is hereby, repealed.

Repealed.

Approved March 26, 1869.

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use#pd-google http://www.hathitrust.org/access_ A. D. 1869. AN ACT TO INCORPORATE THE VARIOUS BOARDS OF TRUSTEES OF THE METHODIST EPISCOPAL CHURCH IN SOUTH CAROLINA.

No. 173.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Authority, bly, and by the authority of the same, The Methodist Episcopal Church of the United States be, and the same is hereby, authorized to organize

> religious societies and churches in this State, in accordance with the rules and requirements of the discipline of said church.

Trustees.

Powers.

SEC. 2. Whenever five or more persons are associated, being organized and appointed Trustees of the Methodist Episcopal Church according to the discipline thereof, they shall be, and are hereby, declared a body politic with powers and privileges incident to a corporation for religious

purposes.

SEC. 3. Such Trustees shall have succession of officers as provided by said church's discipline; may receive, hold and manage all the property, both real and personal, belonging to said society or church, and hold in trust gifts, grants, bequests or donations made to such society or church for the support of public worship and other religious purposes, being governed in their official action by the discipline of said Methodist Episcopal Church.

Statement ed.

SEC. 4. Each society or church organized as herein provided shall, at to be deposit- their organization, draw up a statement of the same, setting forth the facts, signed by the Chairman and Secretary, which statement shall be recorded in the office of the County Clerk.

Approved March 26, 1869.

No. 174. AN ACT TO AUTHORIZE THE FINANCIAL AGENT OF THE STATE OF South Carolina, in the city of New York, to pledge State BONDS AS COLLATERAL SECURITY, AND FOR OTHER PURPOSES.

to pledge

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Authority and by the authority of the same, That the Financial Agent of the State of South Carolina, in the city of New York, be, and he is hereby, authorized to pledge the bonds of the State, which the State now has, or may hereafter have in its possession, as collateral security for State loans: Provided. That in all transactions he shall conform to the provisions of an Act entitled "An Act to authorize a loan to redeem the obligations known as the Bills Receivable of the State of South Carolina," ratified the twenty-sixth day of August, A. D. 1868.

SEC. 2. That Section 1 of an Act entitled "An Act to authorize a State loan to pay the interest on the public debt," passed the twentysixth day of August, 1868, and Section 1 of an Act entitled "An Act to authorize a loan to redeem the obligations known as the Bills Receivable of the State of South Carolina," passed the same date, be so amended as to extend the time during which said loans may be negotiated to

twenty-four months from the passage of said Acts.

SEC. 3. That the Financial Agent of the State of South Carolina, in

the city of New York, be, and he is hereby, directed to make and forward to the Comptroller-General of the State a report of his transactions, quarterly, which report the Comptroller-General is hereby directed to include with his annual report to the General Assembly.

A. D. 1869. Make re-

Approved March 26, 1869.

AN ACT TO FACILITATE THE SETTLEMENT OF THE AFFAIRS OF THE No. 175. BANK OF THE STATE OF SOUTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That immediately after the passage of this Act the Governor shall appoint a President and three Directors of tors, the Bank of the State of South Carolina, who shall exercise all the powers heretofore reposed by law in the President and Directors of the Bank of the State of South Carolina. Said President and Directors shall serve

President and Direc-

without pay, and until their successors are elected and qualified.

SEC. 2. The Attorney-General of the State shall supervise and control all suits in law or equity heretofore brought, or hereafter to be brought, General to by or against said corporation, and the moneys realized in any of said supervise suits in favor of the corporation or the State shall be paid over and disposed of under the orders of the Court. All suits by or against said corporation shall be pressed to a conclusion with the least possible delay. All causes in favor of said corporation, where service of writ and declaration is had on the adverse party at least twenty days before the meeting of the Court to which the writ is returnable, shall be and stand for trial at the first or return term, and no cause shall be continued by the Court except upon good and substantial cause shown.

Attorney-

Approved March 26, 1869.

AN ACT TO CHARTER THE SOUTH CAROLINA CENTRAL RAILROAD No. 176. COMPANY.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That for the purpose of establishing a railroad at a point on the Northeastern Railroad, at or near Gourdin's Depot, Williamsburg County, thence to Manning, Clarendon County, thence to Sumter County, thence to the State line, through Chesterfield County, in the direction of Charlotte, North Carolina, with the privilege of building a branch of the same, running from Manning, Clarendon County, to Kingsville or Columbia, Richland County, which company, when formed with the conditions herein prescribed, shall have corporate existence as a body politic in perpetuity.

Purposes.

SEC. 2. That this charter, with the rights and privileges incidental thereto, is hereby granted to and vested in Henry J. Fox, B. A. Walker, H. D. Corbett, E. C. Green, F. J. Moses, Jr., J. H. Feriter, John A. Salters, William Harris, Elias E. Dickson, and their associates.

Corporators.

subscription.

Capital stock.

Sec. 3. That for the purpose of raising the necessary capital stock of said company it shall be lawful to open books of subscription in such Books of towns and cities as may be deemed for the best interest of the corporation, under the direction of the corporators, to an amount not exceeding two million five hundred thousand dollars (\$2,500,000), in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of constructing and carrying into operation the aforesaid railroad, or any The time and place for receiving subscriptions shall be fixed by a majority of the corporators, and if they fail so to do, then by any three of the corporators hereinbefore named, having given due notice of the same in any newspaper or newspapers of the State; and the subscription books shall be kept open for thirty days at such places as said corporators may decide; that on each share of stock subscribed the said subscribers shall pay two dollars to the corporators, who shall deposit the same in some National Bank. When one hundred thousand dollars are

Rights.

Sec. 4. Whenever the said sum of one hundred thousand dollars is subscribed, the subscribers, their executors, administrators and assigns, shall be, and they are hereby, declared to be incorporated into a company, and shall have all the rights and privileges conferred upon the Northeastern Railroad Company, according to their original charter, each subscriber being entitled to a vote for each share of stock; (said charter was ratified December 16, A. D. 1851:) Provided, That nothing herein contained shall be so construed as to exempt the said company from the payment of taxes.

subscribed, the said corporators, or any three of them, shall give notice of the time and place of meeting for organization in some public news-

Authority.

SEC. 5. The said company shall have the right to build bridges across navigable rivers: Provided, They shall put in good and sufficient draws, and shall construct necessary stations and turnouts, with one or more tracks to the road, with such gauge as will correspond to that of the Northeastern Railroad, and may co-operate with such road or roads as may be chartered by the State of North Carolina, forming but one road, at their discretion: Provided, That the said road shall be commenced within one year and completed within five years after the passage of this Act, or the charter thereof shall be forfeited: And provided, further, That said road shall be subject to the provisions of an Act entitled "An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations may be taken for the construction and uses of railways, and other works of internal improvement," ratified September 22, A. D. 1868.

Approved March 26, 1869.

AN ACT TO AUTHORIZE D. C. WILSON & Co. TO BUILD A DOCK AND COLLECT WHARFAGE IN THE TOWN OF BEAUFORT.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Authority. and by the authority of the same, That D. C. Wilson & Co. be, and are hereby, authorized to build a dock to deep water in front of the property

owned by them in the town of Beaufort; to collect wharfage on the same, and to use, sell or lease said dock for their own benefit, subject to any laws now existing, or hereafter to be made, in relation to such property: Provided, That said D. C. Wilson & Co. shall not interfere with the wharf already constructed, and now owned by James L. Barnwell, without compensation therefor, said compensation to be determined by three arbitrators to be appointed by the Court of Common Pleas in the same manner as referees are appointed.

Approved March 26, 1869.

A. D. 1869. Restriction.

AN ACT TO INCORPORATE THE WATEREE AND NORTH CAROLINA RAILROAD COMPANY.

No. 178.

Authority.

Commis-

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That William M. Shannon, Joseph B. Kershaw, John M. DeSaussure, James Dunlap, James A. Young, James M. Davis, and their associates and successors, are hereby constituted a body politic and corporate, by the name and style of the Wateree and North Carolina Railroad Company.

SEC. 2. That the said company is hereby authorized to construct a railroad from the town of Camden to some point on the North Carolina line, as nearly on a line between Camden and the town of Goldsborough, North Carolina, as may be practicable; and also a railroad from the town of Camden to the North Carolina line, in the direction of Charlotte,

North Carolina.

SEC. 3. That for the purpose of raising the capital stock of the said company, it shall be lawful to open books in the town of Camden, under the direction of James Dunlap, James A. Young and James M. Davis; at Lynchwood, Kershaw County, under the direction of L. W. R. Blair, John R. Shaw, B. S. Lucas and Daniel Bethune; at Cheraw, under the direction of Henry Melva, Alexander McQueen, L. S. Prince and Thomas E. Rowe; at Flat Rock, Kershaw County, under the direction of J. Ross Dye and Lemuel B. Stephenson; at Lancaster, under the direction of James L. Reed, John D. Wylie, William A. Moore and W. M. Connors, for the purpose of receiving subscriptions to an amount not exceeding two millions of dollars, in shares of one hundred dollars each, for the purpose of constructing the railroads provided for by this Act.

SEC. 4. That the amounts subscribed at the places at which books are opened along the proposed lines towards Goldsborough and Charlotte, respectively, shall only be called in, the parties required to pay the same or regarded in any way as stockholders in the said company for the purpose of building, and in connection with the railroad along the line where

such subscriptions are made.

SEC. 5. That the times and places for receiving such subscriptions shall be fixed by the Commissioners in the town of Camden, or a majority of place. them, and shall be advertised for thirty days in one or more newspapers in this State, and the books for receiving such subscriptions shall be kept open for sixty days at each of the places where the same shall be opened.

SEC. 6. That on each share of the stock subscribed, the subscriber shall Installments. pay to the Commissioner receiving such subscription the sum of five dol-

Time and

lars, and no subscription shall be valid without such payment; and at the expiration of the time hereby prescribed for keeping open the books, the said Commissioners shall make a return of the subscriptions taken by them, and the sums paid thereon, to the Commissioners in the town of Camden.

Organ ization.

SEC. 7. That when the sum of three hundred thousand dollars shall be subscribed in the manner herein prescribed, the said company may meet and organize at such time and place as may be designated by a majority of the Commissioners herein named for the town of Camden, due notice having first been given.

Powers.

Sec. 8. That for the purpose of organizing and forming this company, all the powers conferred by the charter of the Northeastern Railroad Company on the Commissioners therein named shall be vested in the Commissioners named in this Act: Provided, The Commissioners named at any point shall only have any power or be called into the exercise of any such power in the event of subscriptions taken and steps instituted towards building the road along the route where such Commissioners were required to open books; and all the powers, rights and privileges granted by the charter, and the amendments thereto, of the Northeastern Railroad Company, to that company, shall be, and the same are hereby. granted to the Wateree and North Carolina Railroad Company, subject to the conditions therein named, except as to the amount of capital stock, the sum necessary to authorize organization, and except so far as the special provisions of this Act may otherwise require the same to be modified or varied: Provided, That nothing herein contained shall be construed so as to exempt the said company from the payment of taxes: Provided, further, That said road shall be subject to the provisions of an Act entitled "An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations may be taken for the construction and uses of railways and other works of internal improvement," ratified September 22, A. D. 1868.

Commence-

SEC. 9. That this Act shall be deemed a public Act, and continue in ment of work force fifty years: Provided, That the work for the execution whereof the said company is incorporated shall be commenced within one year from the first day of January next, and be completed within five years after its commencement.

Approved March 26, 1869.

AN ACT TO CHARTER BROXTON'S FERRY, ACROSS THE GREAT SALT-No. 179. KEHATCHIE RIVER.

ship.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Proprietor- and by the authority of the same, That the ferry commonly called Broxton's Ferry, on the Great Saltkehatchie River, shall be, and the same is hereby, established a public ferry, and vested in William M. Simmons, his heirs, executors and assigns, for the term of seven years, with the privilege of collecting the following rates of toll, to-wit: For each wagon drawn by four horses, mules or oxen, seventy-five cents; for each wagon

drawn by three horses, mules or oxen, sixty-five cents; for each wagon

Tolls.

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drawn by two horses, mules or oxen, fifty cents; for each carriage or buggy drawn by two horses, mules or oxen, fifty cents; for each carriage or buggy drawn by one horse, mule or ox, thirty-five cents; for each man on horseback, ten cents; for each foot passenger, five cents: Provided, That children going to and returning from school, and voters going to and returning from the polls on election day, shall be passed free.

A. D. 1869.

Approved March 26, 1869.

AN ACT TO REGULATE THE MANNER OF GRANTING A FINAL DIS-MISSAL TO EXECUTORS, ADMINISTRATORS, TRUSTEES, GUARDIANS OR COMMITTEES.

No. 180.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That hereafter it shall not be lawful for any of the Judges of Probate in this State to grant a final discharge granting disto any executor or executrix, administrator or administratrix, trustee, guardian or committee without he, she or they first giving public notice in some County newspaper, (if there should be no newspaper published in the County, then in some public journal having the greatest circulation therein,) for the space of at least one month, that on a day certain he, she or they will apply to the Judge of Probate for the County where his, her or their bond is filed, for a final discharge: Provided, The said publication shall be tri-weekly in the cities of Charleston and Columbia.

Manner of

SEC. 2. Be it further enacted, That all Acts or parts of Acts of the General Assembly of this State which are inconsistent with Section 1 of this Act be, and the same are hereby, repealed.

Approved March 26, 1869.

AN ACT TO INCORPORATE THE HOMESTEAD, BUILDING, PLANTING AND LOAN ASSOCIATION OF SOUTH CAROLINA.

No. 181.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Richard H. Cain, Wm. M. Thomas, Charles H. Vanderhorst, Isaac R. Morgan, Lewis Prioleau, Joseph Morris, W. B. Nash, L. Wimbush, G. Barber, and their associates and successors, be, and they are hereby, constituted a body corporate and politic, under the name and style of the "Homestead, Building, Planting and Loan Association, of South Carolina," for the purpose of purchasing lands, houses, plantations and rights of way, mill sites, water powers, and for building of houses, mills, trainways, factories, machine shops, and operating the same within this State; also, renting, leasing, hiring and selling the same to any parties whatsoever.

Corporators.

A. D. 1869. Capital stock.

Sec. 2. That the capital stock of said association shall consist of two hundred and fifty thousand dollars, to be divided into shares of two hundred dollars each, with the privilege of increasing the same to an amount not exceeding two millions of dollars; but when the sum of three thousand dollars shall have been subscribed and paid in, in the manner hereinafter provided, the said association may be organized and go into operation.

Commissioners.

Sec. 3. That for the purpose of raising the capital stock of said association, books of subscription may be opened by or under the direction of R. H. Cain, Wm. M. Thomas, Charles H. Vanderhorst, Isaac R. Morgan, Lewis Prioleau and Joseph Morris, and their associates, at such time and in such places as they may think proper, and shall be authorized to keep open such books until three thousand dollars has been subscribed and paid in, and they shall give public notice of the time and place of opening said books

Meeting.

SEC. 4. That the said Richard H. Cain, Wm. M. Thomas, Charles H. Vanderhorst, Isaac R. Morgan, Lewis Prioleau and Joseph Morris shall, immediately after the subscriptions to the said association shall amount to three thousand dollars in actual cash paid in, call a meeting of the stockholders for an election of such officers as the by-laws, agreed upon by said stockholders, shall prescribe.

Profits.

SEC. 5. That the profits of said association may, from time to time, be divided among the stockholders according to such rules and regulations as they may prescribe, not repugnant to the laws of this State.

Transfer.

Sec. 6. That the stock of said association may be transferred in such manner and form as may be directed by the by-laws of the association.

Powers.

Sec. 7. That said association shall have power and authority to furnish supplies and make advances to planters and farmers engaged in the cultivation of the soil, and for all such supplies furnished and loans made may require and receive a lien upon any real or personal estate, and upon any growing crop, to the extent of such supplies, advances and loans: Provided, That the same shall not interfere with any existing liens. And they shall also have power and authority to purchase, take and hold, in fee simple or for years, to them and their successors, any lands, tenements or hereditaments and other property of whatsoever kind and description, which they may find necessary for the purposes of said association, and to transfer and dispose of the same as they may think proper; and shall have power and authority to make all by-laws, not repugnant to the laws of the land, to have and keep a common seal, and the same to alter at will, to sue and be sued, plead and be impleaded, in any Court of Law or Equity in this State, and shall have and enjoy all and every right and privilege incident to corporate bodies, according to the laws of this State.

To acquire property.

SEC. 8. That the said corporation shall have the power to purchase, acquire, hold, use and dispose of real estate in any of the several Counties of this State. They may own property in other States where it is so required to secure the payment of claims held by said corporation. They may employ foreign and domestic capital in carrying on the same.

SEC. 9. This Act shall be deemed a public Act, and shall continue in

force for fifty years.

Approved March 26, 1869.

AN ACT TO INCORPORATE THE TOWN OF PICKENS.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all persons, citizens of the United States, who now are, or hereafter may be, inhabitants of the town of Pickens, shall be deemed, and are hereby declared, a body politic and corporate; and that said town shall be called and known by the name of Pickens, and its limits shall be deemed and held to extend one-half a mile in each direction from the court house.

Sec. 2. That the said town shall be governed by an Intendant and four Wardens, who shall be elected on the first Monday in April next, on which day, as well as on the first Monday in April of every year thereafter, an election shall be held for an Intendant and four Wardens, (who shall be citizens of the United States, and shall have been residents of said town for sixty days immediately preceding said election,) at such place in said town as the Intendant and Wardens shall designate, ten days' public notice thereof, in writing, being previously given; and that all male inhabitants of the said town, of the age of twenty-one years, who have resided therein sixty days previous to the election, shall be entitled to vote for said Intendant and Wardens; and the election shall be held from nine in the morning until three o'clock in the afternoon, when the poll shall be closed, and the Managers shall count the votes and proclaim the election, and give notice thereof to the persons elected; and that the Intendant and Wardens, for the time being, shall appoint the Managers to hold the ensuing election. That the Intendant and Wardens, before entering upon the duties of their offices, shall take the oath prescribed by the Constitution of this State, and also the following oath, to-wit: "As Intendant (or Warden) of Pickens, I will equally and impartially, to the best of my skill and ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purposes of my appointment. So help me God."

SEC. 3. That in case a vacancy shall occur in the office of Intendant, or any of the Wardens, by death, resignation, removal from State, or from any other cause, an election shall be held by the appointment of the Intendant and Warden or Wardens, as the case may be, ten days' notice thereof, as aforesaid, being given; and, in case of the sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of themselves to act as Intendant during such sickness or absence.

SEC. 4. That the Intendant and Wardens, duly elected and qualified, shall, during their term of service, severally and respectively, be vested with all the powers of Magistrates of this State, in matters civil and criminal, within the limits of said town; that the Intendant shall, as often as occasion may require, summon the Wardens to meet him in Council, a majority of whom shall constitute a quorum for the transaction of business, and shall be known by the name of the Town Council of Pickens; and they, and their successors in office, shall have a common seal, and shall have power and authority to appoint, from time to time, such and so many proper persons to act as Marshals or Constables as they shall deem expedient and proper, which officers shall have all the powers, A. D. 1869.

No. 182

Corporators.

Limits.

Officers.

Election.

Electors.

Vacancies.

Powers.

Marshals.

A. D. 1869. Powers. privileges and emoluments, and be subject to all the duties, penalties and regulations provided by the laws of this State for the office of Constable; and the Intendant and Wardens, in Council, shall have power and authority, under their corporate seal, to ordain and establish all such rules and by-laws and ordinances, respecting the streets, ways, public wells, and springs or fountains of water, markets and police of the said town, and for preserving health, peace, order, and good government within the same, as they may deem expedient and proper; and the said Council may affix fines for offences against such by-laws and ordinances, and appropriate the same to the use of the corporation; but no fine shall exceed fifty dollars. All fines may be recovered by an action for debt, before a proper tribunal.

Nuisances.

Sec. 5. That the said Council shall have power to abate and remove nuisances within the limits of said town, and also to classify and arrange the inhabitants liable to police duty, and to require them to perform such duty as occasion may require, and to enforce the performance thereof, under the same penalties as are now, or may hereafter be, established by law: Provided, always, nevertheless, That the said Town Council shall have power to compound with persons liable to perform such duty upon such terms as they shall by ordinance establish.

Streets.

SEC. 6. That it shall be the duty of the Intendant and Wardens to keep all streets and ways, which may be necessary for public use within the limits of the said town, open and in good repair, and for that purpose they are hereby invested with all the powers, rights and privileges granted by law to the Commissioners of Roads within the limits of said town; and for neglect of duty they shall be liable to the pains and penalties imposed by law upon Commissioners of Roads for like neglect; and they are hereby individually exempt from the performance of road and police duty, and the inhabitants of said town are hereby excused from road and police duty without the limits of said corporation.

Road work.

SEC. 7. That the said Intendent and Wardens shall have power to compound with persons liable to work on the said streets and ways, and to release such persons as may desire it, upon the payment of such sum of money as they may deem a fair equivalent therefor, to be applied by them to the use of the said corporation.

Property.

Sec. 8. That the said Town Council of Pickens shall also be empowered to retain, possess and enjoy all such property as they may now be possessed of or entitled to, or which shall hereafter be given, bequeathed to or in any manner acquired by them, and to sell, alien or in any way transfer the same or any part thereof: *Provided*, The amount of property so held or stock invested shall in no case exceed twenty thousand dollars.

Tax.

Sec. 9. That the said Town Council of Pickens shall also have power to impose an annual tax on all real and personal property within the corporate limits of said town: *Provided*, Said tax does not exceed fifteen cents on the one hundred dollars.

Sales.

SEC. 10. That the Intendant and Wardens of the town of Pickens shall have power to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: *Provided*, That nothing herein contained shall extend to sales by or for Sheriffs, Clerks of Courts, Judge of Probate, Coroners, executors and administrators, assignees, or by any other person under the order of any Court or Magistrate.

Sidewalks.

SEC. 11. That the Intendant and Wardens of the town of Pickens shall

have power and authority to require all persons owning a lot or lots in the said town of Pickens to keep in repair the sidewalks adjacent to their lots, respectively, and for default in this matter shall have power and

authority to impose a fine not exceeding fifteen dollars.

Sec. 12. That the power to refuse or grant licenses to keep a tavern or to retail intoxicating drinks be, and the same is hereby, vested in the Town Council of the town of Pickens; and that they be also invested with all necessary power, by ordinance or ordinances, to suppress or regulate the sale of intoxicating drinks, to be drank at the place where sold, or in or upon any of its appurtenances, or in or upon any of the highways, streets, lanes, alleys, commons, kitchens, stores, shops, public buildings, booths, stalls or out-houses of the said town, or within one-half a mile of the court house of the County of Pickens, in the said town of Pickens: Provided, That no rule or regulation shall be made inconsistent with the Constitution and laws of the State.

SEC. 13. That this Act shall be taken and deemed as a public Act in all

Courts of justice, and shall continue of force until repealed.

Approved March 26, 1869.

AN ACT TO INCORPORATE THE PALMETTO FIRE AND MARINE IN-SURANCE COMPANY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Edwin Bates, Andrew M. Moreland, George I. Cunningham, W. Y. Leitch, R. B. Carpenter, E. W. Marshall, Henry Gerdts and D. H. Chamberlain, of the city of Charleston, and others, and their successors and assigns, according to the rules by them to be established, for the purposes hereinafter mentioned, shall be, and they are hereby, created a body politic and corporate, in law and in fact, under the name, style and title of the Palmetto Fire and Marine Insurance Company; and by the same name, style and title, shall have succession of officers and members, and all the powers, privileges and franchises incident to a corporation; and shall be capable of taking, holding and disposing of their capital stock according to their present or future rules, regulations and institutions, and also of taking, holding and disposing of, or investing, as the said corporation shall, from time to time, judge fit, the increased profit and emolument of their said capital stock, to their own proper use; and shall have full power and authority to make, have and use a common seal, with such device and inscription as they shall deem proper, and the same to break, alter and renew at their pleasure; and, by the name, style and title aforesaid, shall be able and capable, in law and equity, to sue and be sued, implead and be impleaded, answer and be answered unto, in all or any of the Courts or tribunals of this State, in all manner of suits, pleas and demands whatsoever; and they are hereby authorized and empowered to appoint a President and other officers and Directors, in such numbers, at such periods, and with such duties as they shall see fit; and also to make rules, by-laws and ordinances, and to do everything needful for the good government and management of the affairs of the said corporation: Provided, always,

A. D. 1869.

Licenses.

Corporators.

Title.

Seal.

By-laws,

That the said rules, by-laws and ordinances shall not be repugnant to the Constitution and laws of the United States or of this State.

Powers.

SEC. 2. That the said corporation shall have a right and power to purchase, acquire, take and hold, in their said corporate name, lands and real estate, and the same to demise, grant, sell, assign and convey, in fee simple or otherwise: Provided, The yearly income of the real estate so to be held shall not at any time exceed one hundred thousand dollars.

Policies.

SEC. 3. That the said corporation shall have the right and power, by their said name, and by the signature of the President for the time being, or by the signature of such other person or persons, and with such ceremonies of authenticity as they shall, from time to time, in and by their rules and by-laws, ordain and appoint, to make contracts and underwrite policies of insurance and indemnity upon marine risks of vessels, or of goods and merchandise, in whole or in part, foreign or domestic, whether lying in foreign ports or shipped upon the high seas, or in any ports of the United States, or within any of the rivers, bays, creeks, canals or waters of this State, lying or being laden or to be laden; and also, in like manner, to make contracts and underwrite policies of insurance and indemnity against fire on all buildings, goods, wares, merchandise and other property liable to destruction or accident by or from fire, or the effects thereof, situate, lying, being or deposited in this State or elsewhere; and also, in like manner, discount bills of exchange, foreign and inland, and promissory notes; and also to advance money upon bottomry and respondentia bonds; and, generally, to perform and transact all the business relating to the objects aforesaid, according to the usage and custom of merchants; and, by such contracts, effectually to bind and pledge their said capital stock.

By-laws.

SEC. 4. That the said corporation shall be, and they are hereby, invested with full power to enforce upon their own members the due observance of all legal by-laws and regulations for their better government, under such penalties as they shall, in and by such by-laws, limit and prescribe; and to that end, if need be, shall and may institute and maintain, in their said corporate name, against any one or more of their members, either at law or in equity, all just and necessary suits, actions and pleas for the recovery of all and any sum or sums of money to the use of the said corporation, in as ample a manner as such suits might be maintained against persons not members of the said corporation; any law, usage or custom to the contrary thereof, in anywise, notwithstanding.

Capital stock.

SEC. 5. That the capital stock of the said Palmetto Fire and Marine Insurance Company shall consist of ten thousand shares of twenty-five dollars each, and that whenever the aggregate amount of fifty thousand dollars shall have been paid in upon the said capital stock, then the said Palmetto Fire and Marine Insurance Company shall be authorized to commence business under this Act, and to exercise all the powers hereinbefore granted; and the said Palmetto Fire and Marine Insurance Company shall have power to choose a President and Directors thereof, and such other officers as they may deem necessary for the promotion of the interests of the said company.

Property vested in the members.

Sec. 6. That on the expiration or dissolution of the said corporation, then, and in such case, the estate, by such corporation possessed, shall not escheat, but be vested in the several members of said corporation, in average and proportion to their several and respective shares in

the capital stock aforesaid, after the payment of the debts of the said corporation.

SEC. 7. That this charter shall cease and determine after a lapse of

twenty-one years from the date of the same.

SEC. 8. That this Act shall be deemed a public Act, and the several Courts of Law and Equity in this State shall be bound to take judicial notice thereof without the same being specially pleaded.

Approved March 26, 1869.

AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO No. 184. INCORPORATE THE VILLAGE OF MARION, AND FOR OTHER PUR-POSES THEREIN MENTIONED."

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to incor- Amendment. porate the village of Marion, and for other purposes therein mentioned," passed on the 21st day of December, A. D. 1854, be, and the same is hereby, altered and amended as follows: That from and after the passage of this Act, all and every person or persons who shall have resided within this State for one year, and within the corporate limits of the village of Marion for two months, are hereby declared to be members of the corporation hereby intended to be created.

SEC. 2. That the said persons shall, from and after the passage of this Act, become a body politic and corporate, and shall be known and called limits. by the name of the town of Marion; and its corporate limits shall extend three-fourths of a mile in the direction of the cardinal points, from the

court house as a centre, and form a square.

Sec. 3. That the said town shall be governed by an Intendant and four Wardens, who shall have resided in the State for one year and within the limits of the town sixty days immediately preceding their election. said Intendant and Wardens shall be elected on the second Monday in January in every year, ten days' notice being previously given, and shall continue in office for one year, and until the election and qualification of their successors; and all male inhabitants of said town who shall have attained the age of twenty-one, paupers excepted, and resided therein sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens.

SEC. 4. The said election shall be held in some convenient public place in said town, from eight o'clock in the morning until four o'clock in the evening, and when the polls shall be closed, the Managers shall forthwith count the votes and declare the election, and give notice thereof in writing to the person thereof. The Intendant and Wardens, before entering upon the duties of their offices, shall, respectively, take the oath prescribed by the Constitution of this State, and also the following oath, towit: "As Intendant (or Warden) of the town of Marion, I will equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected: So

Corpora t e

Officers.

Election.

Oath.



help me God." And if any person, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay to the Town Council the sum of twenty dollars, for the use of said town: Provided, That no person who has attained the age of sixty years shall be compelled to serve in either of said offices; nor shall any other person be compelled to serve more than one year in any term of three years. Intendant and Wardens, for the time being, shall always appoint one or more Boards of Managers, three Managers for each Board, to conduct the election, who, before they open the polls, shall take an oath fairly and impartially to conduct the same.

Vacancies.

Sec. 5. That in case a vacancy shall occur in the office of Intendant or any of the Wardens, by death, resignation, removal, or otherwise, an election to fill such vacancy shall be held by the appointment of the Intendant and Warden or Wardens, as the case may be, ten days' previous notice being given; and in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect

one of their number to act as Intendant during the time.

Powers.

Sec. 6. That the Intendent and Wardens, duly elected and qualified. shall, during their term of service, severally and respectively, be vested with all the powers of Magistrates or Justices of the Peace, as the case may be, in this State, within the limits of the said town, except for the trial of small and mean causes. And the Intendant shall and may, as often as may be necessary, summon the Wardens to meet in Council, any two of whom, with the Intendant, or any three Wardens, may constitute a quorum to transact business; and they shall be known as the Town Council of Marion. And they and their successors hereafter to be elected may have a common seal, which shall be affixed to all their ordinances; may sue and be sued, plead and be impleaded, in any Court of law or equity in this State, and purchase, hold, possess and enjoy, to them and their successors, in perpetuity or for any term of years, any estate, real, personal or mixed, and sell, alien and convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars. And the Intendant and Wardens shall have full power to make and establish all such rules and by-laws and ordinances respecting the roads, streets, market and police of said town as shall appear to them necessary and requisite for the security, welfare and convenience of the said town, or for preserving health, peace, order and good government within the same. And the said Council may fix and impose fines and penalties for the violation thereof, and appropriate the same to the public uses of the said corporation: Provided, That no fine shall exceed fifty dollars for any one offence; and, also, that nothing herein contained shall authorize the said Council to make any by-laws inconsistent with or repugnant to the Constitution and laws of this State; and all by-laws and ordinances the Council may make shall at all times be subject to revision or repeal by the Legislature of this State.

Licenses.

SEC. 7. That the Intendant and Wardens of said town shall have full power to grant or refuse licenses to keep taverns or retail spirituous liquors within the corporate limits of said town, upon such conditions and under such circumstances as to them shall seem proper and right: Provided, That in no instance shall the price of a license to keep a tavern or to retail spirituous liquors be at a less sum than is established by the laws of the State; and all moneys paid for licenses and for fines and forfeitures for retailing spirituous liquors, keeping taverns and billiard tables within the said limits without licenses, shall be appropriated to the public uses of said town: Provided, That the Intendant and Wardens duly elected and qualified shall not have power to grant any license to keep taverns or retail spirituous liquors to extend beyond the term for which they have been elected.

SEC. 8. That it shall be the duty of the said Intendant and Wardens to keep all roads, streets and ways within their corporate limits open and in good repair; and they may lay out new streets, close up, widen, or otherwise alter those now in use, and for that purpose they are invested with all the powers and duties of surveyors of highways and Selectmen They shall have power to compound with all persons liable to work the streets, ways and roads in said town, upon such terms as they shall by ordinance establish, the moneys so received to be applied to the public use of said town; and all persons refusing or failing to pay such commutation shall be liable to such fine, not exceeding twenty dollars, as the Town Council may impose.

SEC. 9. They shall also have power to impose an annual tax not exceeding fifty cents on every hundred dollars of the value of all real and personal property lying within the corporate limits of the town, the real and personal property of churches and school associations excepted; the said Town Council shall have power to regulate the price of licenses upon all public shows and exhibitions in said town, to erect a powder magazine, and compel any person holding more than twenty-five pounds of powder to store the same therein, and to make regulations for rates of storage thereof, and for keeping and delivering the same. The said Council shall have power to enforce the payment of all taxes and assessments levied under the authority of this Act against the property of defaulters, to the same extent and in the same manner as is provided by law for the collection of the general State tax, except that executions to enforce the payment of the town taxes shall be issued under the seal of the corporation, and directed to the Town Marshal or other person especially appointed by the said Town Council to collect the same; and all property upon which a tax shall be levied and assessed is hereby declared and made liable for the payment thereof in preference of all other debts against the said property, except debts due the State, which shall be first

SEC. 10. The said Town Council shall have power and authority to require all persons owning a lot or lots in said town to close in and to make and keep in good repair sidewalks in front of said lot or lots whenever the same shall front or adjoin any public street of said town, if, in the judgment of the Council, such sidewalk shall be necessary, the width thereof and the manner of their construction to be designated and regulated by the said Council; and for default or refusal, after reasonable notice, to make and keep in good repair such sidewalks and to close in such lot or lots, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing. said Town Council are hereby empowered to sue for and receive the same by action of debt in any Court of competent jurisdiction: Provided, That such contract for making or repairing be let to the lowest bidder. The cemeteries and graveyards are also placed under the jurisdiction of the Town Council.

A. D. 1869.

Roads.

Tax.

Exhibitions.

Sidewalks.

SEC. 11. The said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within Closing and the said town as they may deem necessary, by sale of the freehold therein, o pening either at private or public sale, as they may adjudge best for the interest of the said town; and they shall also have power to lay out, adopt, widen or otherwise alter those streets now in use, open and keep in repair all such new streets, roads and ways as they may, from time to time, deem necessary for the improvement and convenience of said town: Provided, That no street, road or way shall be opened without first having obtained the consent of the land owner or owners through whose premises any such new street, road or way may pass.

M arshals.

SEC. 12. The said Town Council shall have power, and are hereby authorized, to elect one or more marshals, (in addition to the Sheriff of the County of Marion, who shall also be a marshal of the town,) to fix their salaries and prescribe their duties, who shall be sworn in and invested with all the powers, and subjected to all the duties and liabilities that Constables now have or are subject to by law, in addition to the duties and liabilities specially conferred and imposed on them by the Town Council: Provided. That their jurisdiction shall be confined within the limits of said town.

Guard house.

Police reg-

ulations.

SEC. 13. That the said Town Council shall have power to establish a guard house, and to prescribe, by ordinance, suitable rules and regulations for keeping and governing the same; and until such guard house shall be established, they shall be authorized to use a room in the common jail of the County of Marion for the confinement of all who may be subject to be committed for violation of any ordinance of the town, passed in conformity to the provisions of this Act; and the said Town Council may, by ordinance, or the said Intendant and Wardens in person, any one or more of them, authorize and require any marshal of the town, or any Constable specially appointed for that purpose, to arrest and commit to the said guard house or jail of Marion County, as the case may be, for a term not exceeding twenty-four hours, any person or persons who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or in any conduct grossly indecent or dangerous to the citizens of said town, or any of them; and it shall be the duty of town marshals to arrest and commit all such offenders, when required so to do, who shall have power to call to their assistance the posse comitatus, if need be, to aid in making such arrests; and upon the failure of said marshals to perform such duty as required, they shall, severally, be subject to such fines and penalties as the Town Council may establish. all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said cost and expenses shall be collected in the same manner as is provided by this Act for the collection of fines imposed for the violation of ordinances: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose for the offence for which he may have been committed.

Exhibitions.

SEC. 14. The said Town Council shall have power to collect the taxes from all the persons representing publicly, within their corporate limits, for gain or reward, any plays or shows of what nature or kind whatever, to be used for the purpose of said town.

SEC. 15. All fines which shall hereafter be collected for retailing with-

out license, within the corporate limits of said town, shall be paid, one half to the informer and the other to the Council, for the use of said town.

A. D. 1869.

SEC. 16. The said Town Council shall have full power and authority to abate all nuisances within the corporate limits, and also to appoint a Board of Health for said town, and to pass such ordinances as may be necessary to define the powers and duties, and to impose fines and penalties upon the members of said Board for neglect of duty or refusal to serve: Provided, That no fine hereby authorized to be imposed shall ex-

Nuisances.

ceed the sum of twenty dollars.

SEC. 17. The Intendant and Wardens elect shall, during their term of Exemptions. office, be exempt from street duty. Each Town Council shall, within one month after the expiration of their term of office, make out and return to their successors a full account of their receipts and expenditures during their term, which account shall be published in one or more papers of the town or County, and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and other papers incident to their office to their successors; and on failure so to do, they shall be liable to be fined in a sum not exceeding five hundred dollars, to be collected by any proper action by the Town Council.

SEC. 18. For any wilful violation or neglect of duty, malpractice, Malpractice. abuse or oppression, the said Intendant and Wardens, jointly and severally, shall be liable to indictment in the Court of Sessions, and, upon conviction, to punishment, as prescribed in the preceding Section, besides being liable for damages to any person or persons injured.

SEC. 19. That all ordinances heretofore passed by the Town Council of Marion, in conformity with the authority granted by existing laws, shall be, and they are hereby, declared legal and valid.

Sec. 20. All Acts and parts of Acts heretofore passed in relation to the incorporation of the village of Marion be, and the same are hereby,

repealed.

SEC. 21. This Act shall be deemed a public Act, and continue in force for the term of fifteen years, and until the end of the session of the Legislature then next ensuing.

Approved March 26, 1869.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO DEFINE THE No. 185. JURISDICTION AND DUTIES OF COUNTY COMMISSIONERS."

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to define the jurisdiction and duties of County Commissioners," passed the twenty-sixth day of September, A. D. 1868, be amended as follows: At the end of Section twenty-nine add: "Provided, That compensation shall tion. not be allowed to any member of the Board of County Commissioners, for exceeding one hundred days in any one year, except to the members of the Board of County Commissioners for the County of Charleston, who shall not be allowed compensation for exceeding one hundred and fifty days, in any one year. Compensation for double this number of days' may be allowed to the County Commissioners during the first term of

Extent of compensa-

A. D. 1869. Account.

office, ending the third Monday in April, A. D. 1870; but in all cases during said period, as well as thereafter, under the limitations, and in the manner following, to-wit: An account shall be made out in items, with dates prefixed, accompanied with an affidavit of the number, stating that the items of such accounts are correct and just, and that the services therein mentioned have been rendered as stated, and no part of said account has been paid. The accounts shall be presented to the County Treasurer, who shall audit, and, if correct, pay the same, out of funds accruing from taxes laid and collected for County purposes."

Fees to be County.

Sec. 2. That Section twenty-seven of said Act shall be amended by the paid by the addition of the following at the end of the Section: "The County shall

Jurors.

1. The fees of grand and petit jurors while in attendance upon the Circuit Court.

Witnesses.

2. Witness fees in State cases at the rate of one dollar per day for actual attendance on the Circuit Court, and seventy-five cents per day for actual attendance on a Magistrate or Justice of the Peace Court, and five cents per mile for actual and necessary travel.

Post mortem.

3. Fees of physicians and surgeons testifying as experts before a Coroner's Jury, or at the Circuit Court, after a post mortem examination, ten dollars, and five cents per mile for actual and necessary travel.

4. For dieting and keeping persons confined in the County jail, at the

rate of fifty cents per day.

Solicitors.

5. Fees of the Circuit Solicitors for services in the County, when not collected from the defendant, at the following rates: In a trial before a jury in civil and criminal cases, or before referees, a docket fee of ten dollars; in cases at law, where judgment is rendered without a jury, seven dollars and fifty cents; said fees to be in lieu of all other compensation whatever.

Clerks.

6. Fees of the Clerks of the Circuit Courts in State cases, at the rate now allowed by law.

Coroners.

7. Fees of the County Coroners at the rates now allowed by law.

Before the accounts of Sheriffs, Circuit Solicitors or Clerks shall be presented to the County Treasurer for payment, they shall be sworn to by said officers, examined and certified to by the Judge presiding in the Circuit Court in the County, approved and ordered to be paid by the County Commissioners.

Assessments.

SEC. 3. Section thirty-four of said Act shall be, and the same is hereby, amended so as to read as follows: The County Commissioners shall assess all taxes for County purposes upon the then last State valuation; and for this purpose shall, on or before the first day of January in each year, obtain from the Auditor of the County (who is hereby authorized and required to furnish the same) a certified copy of the County duplicate, as prescribed in Section seventy-five of the Act entitled "An Act providing for the assessment and taxation of property;" and shall, on or before the fifteenth day of January thereafter, pursuant to authority given by the General Assembly, make out and deliver to the County Treasurer, with their warrant to collect, a tax bill for County purposes. Said tax bill and

warrant shall be signed by the County Commissioners, or a majority of

Tax bill.

them, sealed with their seal, and certified to by their clerk. Said tax bill and warrant shall be the Treasurer's sufficient authority, and he shall Collections, proceed thereon to collect the taxes therein laid in the same manner as

provided by law for the collection of State taxes: Provided, That the County duplicate upon which to levy the tax for the year 1869, for County purposes, may be obtained as soon as practicable after the same is completed by the County Auditor, and the tax assessed, and all subsequent proceedings for the collection of the same be had in the same manner as State taxes for said year are collected.

SEC. 4. The County Commissioners of the several Counties are hereby authorized to levy a tax of three mills on the dollar, if so much, in their judgment, be necessary, for County purposes for the year 1869, to be expended according to law.

SEC. 5. It shall be the duty of the County Commissioners to furnish the County Auditor and Treasurer of their respective Counties office room, together with the necessary furniture, stationery, &c., for the same.

SEC. 6. If the County Commissioners of any County shall fail or neglect to perform the duties imposed upon them by Sections eleven and neglect. twelve of said Act by the first day of June, A. D. 1869, the Judge of the Circuit in which said County may be, be, and he is hereby, authorized and required to make all orders and direct all measures necessary to forthwith accomplish the division of said County into townships and the organization of said townships.

Approved March 27, 1869.

A. D. 1869.

County tax.

Tax office.

In case of

AN ACT TO PROVIDE FOR THE APPOINTMENT OF A LAND COMMIS-SIONER, AND TO DEFINE HIS POWERS AND DUTIES.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Advisory Board hereinafter created is hereby authorized and required to appoint a suitable person to be known as the Land Commissioner of the State of South Carolina; said Commissioner, before entering upon the duties of his office, shall missioner. execute to the people of the State of South Carolina a written undertaking, with good and sufficient surety, in the penal sum of twenty thousand dollars, for the faithful discharge of the duties of his office; said undertaking to be approved by the Advisory Board and filed in the office of His salary shall be at the rate of two thousand the Secretary of State. dollars per annum while on duty.

SEC. 2. That said Land Commissioner shall hold his office at the pleasure of the Advisory Board, and before entering upon the duties of his fice. office shall take and subscribe the oath prescribed in the thirtieth Section of Article two of the Constitution, which oath shall be filed in the office

of the Secretary of State.

Sec. 3. That the Governor, Comptroller-General, State Treasurer, Secretary of State, and Attorney-General are hereby declared to be an sory Board. Advisory Board to the Land Commissioner; and said Commissioner shall, in all the duties imposed upon him by the provisions of this Act, be governed by their instructions and advice.

SEC. 4. That it shall be the duty of the said Land Commissioner to

No. 186.

Advi s o r y Board.

Land Com-

Bond.

Term of of-

The Advi-



Commission -

A. D. 1869.

purchase or cause to be purchased any lands in any portion of the State, improved or unimproved, at such price as the said Advisory Board may Duty of the determine, not to exceed in the aggregate amount in any one fiscal year the par value of the public stock of this State created by the General Assembly for this purpose.

Treasur e r authorized to issue bonds.

Sec. 5. The Treasurer of the State is hereby authorized and directed to issue to the Land Commissioner bonds of this State in the sum of two hundred thousand dollars, with coupons attached, if in the opinion of the said Advisory Board so much be necessary, bearing six per cent. interest, the principal payable in twenty years at the Financial Agency of this State in the city of New York; the bonds to be signed by the Governor, countersigned by the Comptroller-General, and the coupons to be signed by the Treasurer of the State. The faith and credit of the State is hereby pledged to the payment of the principal and interest of said bonds, and a sufficient amount of taxes is hereby levied to pay the interest accruing on said bonds annually.

Lands to be sub-divided.

Sold to actual settlers. Terms.

Sec. 6. All lands purchased by said Land Commissioner shall be subdivided into sections, containing not less than twenty-five nor more than one hundred acres, to be sold to actual settlers, subject to the condition that one-half thereof shall be placed under cultivation within five years from the date of such purchase, and that the purchaser shall annually pay interest at the rate of six per cent. per annum upon any moneys remaining unpaid, and also all taxes imposed thereon by the authority of the United States or of this State. And in addition thereto, shall, in every year after the third from the date of said purchase, pay one-fifth of the principal. The title to said land shall remain in the State until the amount of said purchase shall be paid, principal and interest; but a certificate of such purchase shall be assignable at three years from date thereof: Provided, That in every case where a person purchases more than one section of fifty acres, they shall pay on such excess one-fourth cash, and the balance to be paid in equal annual installments of one-Limit of fourth the amount of purchase each year: Provided, That no person shall be entitled to purchase, in his own name, or for his own use, more than one hundred acres.

quantity.

Titles.

Receipts to

be deposited. posit with the Treasurer of the State all moneys collected by him as interest due upon the sale of said lands, which shall be used by the Treas-

Invested.

urer of the State in the payment of the interest on the stocks and bonds of the State, issued for the purchase of said lands, and to invest in bonds of this State all moneys received by the Land Commissioner in payment for said lands as principal; said State bonds to be deposited Sinking fund with the Treasurer of the State, to constitute a sinking fund for the final payment and redemption of all stocks or bonds issued by the State for the purchase of said lands. The interest accruing on the bonds of the said sinking fund shall be applied to the payment of the interest upon the stocks or bonds of the State issued for the purchase of lands.

Sec. 7. It shall be the duty of the said Land Commissioner to de-

Books and records.

port.

SEC. 8. The books and records of the office of the said Land Commissioner shall, at all times, be subject to the inspection of the Advisory Board, or any member thereof; and the said Land Commissioner shall Annual re- annually make a detailed report of the transactions of his office to the General Assembly.

SEC. 9. The said Land Commissioner, in addition to the compensation

hereinbefore prescribed, shall receive such fees as the Advisory Board may prescribe, not to exceed, in the aggregate for each title, the sum of ten dollars, the cost of all other papers included. Said fees, also mileage and per diem of the Land Commissioner, shall be paid out of the contingent fund of the State, to be paid by the Treasurer on the certificate of the Advisory Board. And the Land Commissioner shall be allowed such clerical assistance as may be authorized by the Advisory Board, sistance.

which shall be paid in the same manner. SEC. 10. The said Land Commissioner shall not purchase from or sell to the State any land, neither shall he engage in speculations in lands, stoner stricted. either on his own account or as agent for other persons or corporations, and upon conviction thereof, for every such offence, shall be fined and

imprisoned at the discretion of the Court.

SEC. 11. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

Approved March 27, 1869.

A. D. 1869.

Fees.

Clerical as-

Commis-

AN ACT TO DETERMINE THE VALUE OF CONTRACTS MADE IN CON-FEDERATE STATES NOTES OR THEIR EQUIVALENT.

No. 187.

Whereas, during the years 1861, 1862, 1863, 1864, and part of the year 1865, in the exchange and transfer of real and personal property, Confederate States notes, issued by the so-called Confederate States Government, were used as a basis of value or medium of exchange; and whereas the value of said Confederate States notes was greatly less than the lawful money of the United States; and whereas the payment of debts and obligations contracted during said years in said Confederate States notes is now sought to be enforced in the lawful money of the United States;

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the value of all debts and obligations, whether under seal or not under seal, created or contracted in Confederate States notes, or with reference to Confederate States notes as a basis of value, issued by the so-called Confederate States Government, or in or by any bills, bonds or notes assimilated or made equivalent in value to Confederate States notes by any law or custom of trade, during the years 1861, 1862, 1863, 1864 and 1865, shall be determined by the value of said Confederate States notes in the lawful money of the United States at the time such debts or obligations were created or contracted.

SEC. 2. Pursuant to the preceding Section, the value of one dollar of lawful money of the United States in said Confederate States notes is declared as follows, namely:

1. During January and February, 1861, one dollar of lawful money was equal to one dollar and five cents of Confederate States notes.

2. During March, 1861, one dollar of lawful money was equal to one dollar and six cents of Confederate States notes.

3. During April, 1861, one dollar of lawful money was equal to one April. dollar and seven cents of Confederate States notes.

Value of

January and February,

March.

1861.



June.

4. During May, 1861, one dollar of lawful money was equal to one dollar and eight cents of Confederate States notes.

5. During June, 1861, one dollar of lawful money was equal to one dollar and nine cents of Confederate States notes.

July and August.

6. During July and August, 1861, one dollar of lawful money was equal to one dollar and ten cents of Confederate States notes.

September.

7. During September, 1861, one dollar of lawful money was equal to one dollar and eleven cents of Confederate States notes.

October.

8. On the first day of October, 1861, one dollar of lawful money was equal to one dollar and twelve cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of October, 1861, when one dollar of lawful money was equal to one dollar and fifteen cents of Confederate States notes.

November.

9. On the first day of November, 1861, one dollar of lawful money was equal to one dollar and fifteen cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth of November, 1861, when one dollar of lawful money was equal to one dollar and twenty cents of Confederate States notes.

December.

10. On the first day of December, 1861, one dollar of lawful money was equal to one dollar and twenty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of December, 1861, when one dollar of lawful money was equal to one dollar and thirty cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of December, 1861, when one dollar of lawful money was equal to one dollar and twenty cents of Confederate States notes.

1862—January.

11. On the first day of January, 1862, one dollar of lawful money was equal to one dollar and twenty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of January, 1862, when one dollar of lawful money was equal to one dollar and twenty-two cents of Confederate States notes.

February.

12. On the first day of February, 1862, one dollar of lawful money was equal to one dollar and twenty-two cents of Confederate States notes, and from day to day thereafter regularly increased in value until the twenty-eight day of February, 1862, when one dollar of lawful money was equal to one dollar and forty-eight cents of Confederate States notes.

March.

13. On the first day of March, 1862, one dollar of lawful money was equal to one dollar and forty-eight cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of March, 1862, when one dollar of lawful money was equal to one dollar and seventy-three cents of Confederates States notes.

April.

14. On the first day of April, 1862, one dollar of lawful money was equal to one dollar and seventy-three cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of April, 1862, when one dollar of lawful money was equal to one dollar and eighty-seven cents of Confederate States notes.

Мау.

15. On the first day of May, 1862, one dollar of lawful money was equal to one dollar and eighty-seven cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of May, 1862, when one dollar of lawful money was equal to one dollar and eighty-nine cents of Confederate States notes.

June.

16. On the first day of June, 1862, one dollar of lawful money was

equal to one dollar and eighty-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of June, 1862, when one dollar of lawful money was equal to one dollar and ninety cents of Confederate States notes.

17. On the first day of July, 1862, one dollar of lawful money was equal to one dollar and ninety cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the twentieth day of July, 1862, when one dollar of lawful money was equal to one dollar and eighty-three cents of Confederate States notes, and from day to

day of July, 1862, when one dollar of lawful money was equal to one dollar and eighty-three cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of July, 1862, when one dollar of lawful money was equal to one dollar and ninety cents of Confederate States notes.

18. On the first day of August, 1862, one dollar of lawful money was equal to one dollar and ninety cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of August, 1862, when one dollar of lawful money was equal to two dollars and seventeen cents of Confederate States notes.

19. On the first day of September, 1862, one dollar of lawful money was equal to two dollars and seventeen cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of September, 1862, when one dollar of lawful money was equal to two dollars and twenty-three cents of Confederate States notes.

20. On the first day of October, 1862, one dollar of lawful money was equal to two dollars and twenty-three cents in Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of October, 1862, when one dollar of lawful money was equal to two dollars and thirty cents of Confederate States notes.

21. On the first day of November, 1862, one dollar of lawful money was equal to two dollars and thirty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of November, 1862, when one dollar of lawful money was equal to two dollars and thirty-three cents of Confederate States notes.

22. On the first day of December, 1862, one dollar of lawful money was equal to two dollars and thirty-three cents in Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of December, 1862, when one dollar of lawful money was equal to two dollars and thirty cents of Confederate States notes.

23. On the first day of January, 1863, one dollar of lawful money was equal to two dollars and thirty cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of January, 1863, when one dollar of lawful money was equal to one dollar and ninety-four cents of Confederate States notes.

24. On the first day of February, 1863, one dollar of lawful money was equal to one dollar and ninety-four cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the twenty-eighth day of February, 1863, when one dollar of lawful money was equal to one dollar and eighty-nine cents of Confederate States notes.

25. On the first day of March, 1863, one dollar of lawful money was equal to one dollar and eighty-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-

A. D. 1869.

July.

August.

September.

October.

November.

December.

1863—January.

February.

March.



first day of March, 1863, when one dollar of lawful money was equal to three dollars and fifty cents of Confederate States notes.

April.

26. On the first day of April, 1863, one dollar of lawful money was equal to three dollars and fifty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of April, 1863, when one dollar of lawful money was equal to three dollars and eighty cents of Confederate States notes.

May.

27. On the first day of May, 1863, one dollar of lawful money was equal to three dollars and eighty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtyfirst day of May, 1863, when one dollar of lawful money was equal to four dollars and forty-eight cents of Confederate States notes.

June.

28. On the first day of June, 1863, one dollar of lawful money was equal to four dollars and forty-five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of June, 1863, when one dollar of lawful money was equal to five dollars and thirteen cents of Confederate States notes; and from day to day thereafter regularly increased in value until the thirtieth day of June, 1863, when one dollar of lawful money was equal to five dollars and forty-seven cents of Confederate States notes.

July.

29. On the first day of July, 1863, one dollar of lawful money was equal to five dollars and fifty-one cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of July, 1863, when one dollar of lawful money was equal to seven dollars and seventy-five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of July, 1863, when one dollar of lawful money was equal to ten dollars and ninety-three cents of Confederate States notes.

August.

30. On the first day of August, 1863, one dollar of lawful money was equal to ten dollars and eighty-five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of August, 1863, when one dollar of lawful money was equal to twelve dollars of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of August, 1863, when one dollar of lawful money was equal to eleven dollars and two cents of Confederate States notes.

September.

31. On the first day of September, 1863, one dollar of lawful money was equal to eleven dollars and two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of September, 1863, when one dollar of lawful money was equal to ten dollars and sixty-eight cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirtieth day of September, 1863, when one dollar of lawful money was equal to nine dollars and twenty-two cents of Confederate States notes.

October.

32. On the first day of October, 1863, one dollar of lawful money was equal to nine dollars and twenty-two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of October, 1863, when one dollar of lawful money was equal to eight dollars and one cent of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of October, 1863, when one dollar of lawful money was equal to eight dollars and ninety-six cents of Confederate States notes.

33. On the first day of November, 1863, one dollar of lawful money was equal to eight dollars and ninety-six cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of November, 1863, when one dollar of lawful money was equal to ten dollars and fifty-four cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of November, 1863, when one dollar of lawful money was equal to thirteen dollars and fifty-one cents of Confederate States notes.

34. On the first day of December, 1863, one dollar of lawful money was equal to thirteen dollars and fifty-one cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of December, 1863, when one dollar of lawful money was equal to fourteen dollars of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of December, 1863, when one dollar of lawful money was equal to thirteen

dollars and ninety cents of Confederate States notes.

35. On the first day of January, 1864, one dollar of lawful money was equal to thirteen dollars and ninety cents of Confederate States notes, and uary. from day to day thereafter regularly decreased in value until the fifteenth day of January, 1864, when one dollar of lawful money was equal to twelve dollars and ninety cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of January, 1864, when one dollar of lawful money was equal to twelve dollars and eighty-two cents of Confederate States notes.

36. On the first day of February, 1864, one dollar .of lawful money was equal to twelve dollars and seventy-four cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of February, 1864, when one dollar of lawful money was equal to thirteen dollars and twelve cents of Confederate States notes. and from day to day thereafter regularly increased in value until the twenty-ninth day of February, 1864, when one dollar of lawful money was equal to sixteen dollars and thirty-five cents of Confederate States notes.

37. On the first day of March, 1864, one dollar of lawful money was equal to sixteen dollars and thirty-five cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of March, 1864, when one dollar of lawful money was equal to eleven dollars and seventy-two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirtyfirst day of March, 1864, when one dollar of lawful money was equal to eleven dollars and fifty-one cents of Confederate States notes.

38. On the first day of April, 1864, one dollar of lawful money was equal to eleven dollars and forty-four cents of Cofederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of April, 1864, when one dollar of lawful money was equal to twelve dollars and thirteen cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirtieth day of April, 1864, when one dollar of lawful money was equal to eleven dollars and eleven cents of Confederate States notes.

39. On the first day of May, 1864, one dollar of lawful money was May. equal to eleven dollars and thirty cents of Confederate States notes. and from day to day thereafter regularly decreased in value until the fifteenth

A. D. 1869.

November.

December.

1864-Jan-

February.

March.

April.



A. D. 1869. day of May, 1864, when one dollar of lawful money was equal to ten dollars and forty cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of May, 1864, when one dollar of-lawful money was equal to nine dollars and

forty-seven cents of Confederate States notes.

40. On the first day of June, 1864, one dollar of lawful money was June. equal to nine dollars and forty-seven cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirtieth day of June, 1864, when one dollar of lawful money was equal to seven dollars and five cents of Confederate States notes.

41. On the first day of July, 1864, one dollar of lawful money was equal to seven dollars and five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of July, 1864, when one dollar of lawful money was equal to eight dollars of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of July, 1864, when one dollar of lawful money was equal to seven dollars and eighty-four cents of Confederate States notes.

42. On the first day of August, 1864, one dollar of lawful money was equal to seven dollars and eighty-four cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of August, 1864, when one dollar of lawful money was equal to eight dollars and sixty-two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of August, 1864, when one dollar of lawful money was equal to eight dollars and fifty-four cents of Confederate States notes.

43. On the first day of September, 1864, one dollar of lawful money was equal to eight dollars and fifty-four cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of September, 1864, when one dollar of lawful money was equal to nine dollars and eighty-six cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of September, 1864, when one dollar of lawful money was equal to fourteen dollars and six cents of Confederate States notes.

44. On the first day of October, 1864, one dollar of lawful money was equal to fourteen dollars and six cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of October, 1864, when one dollar of lawful money was equal to eleven dollars and sixty-two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of October, 1864, when one dollar of lawful money was equal to eleven dollars and sixty cents of Confederate States notes.

45. On the first day of November, 1864, one dollar of lawful money was equal to eleven dollars and six cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of November, 1864, when one dollar of lawful money was equal to eleven dollars and ninety-one cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of November, 1864, when one dollar of lawful money was equal to thirteen dollars and ninety-one cents of Confederate States notes.

46. On the first day of December, 1864, one dollar of lawful money was equal to fourteen dollars and nine cents of Confederate States notes,

July.

August.

September.

October.

November.

December.

and from day to day thereafter regularly increased in value until the fifteenth day of December, 1864, when one dollar of lawful money was equal to fourteen dollars and eighty-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of December, 1864, when one dollar of lawful money was equal to twenty-two dollars and twenty-two cents of Confederate States notes.

A. D. 1869.

47. On the first day of January, 1865, one dollar of lawful money was equal to twenty-six dollars of Confederates States notes, and from day to uaryday thereafter regularly increased in value until the fifteenth day of January, 1865, when one dollar of lawful money was equal to twentynine dollars and sixty-three cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of January, 1865, when one dollar of lawful money was equal to twenty-four dollars and thirty-nine cents of Confederate States notes.

1865--Jan-

48. On the first day of February, 1865, one dollar of lawful money was equal to twenty-four dollars and fifty-one cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of February, 1865, when one dollar of lawful money was equal to twenty-two dollars and eighty-six cents of Confederate States notes, and from day to day thereafter regularly increased in value until the twenty-eighth day of February, 1865, when one dollar of lawful money was equal to twenty-seven dollars and twenty-two cents of Confederate States notes.

February.

49. On the first day of March, 1865, one dollar of lawful money was equal to twenty-seven dollars and fifty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of March, 1865, when one dollar of lawful money was equal to thirty-two dollars and twenty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtyfirst day of March, 1865, when one dollar of lawful money was equal to forty-six dollars and thirty-five cents of Confederate States notes.

50. On the first day of April, 1865, one dollar of lawful money was

March.

equal to forty-six dollars and thirty-five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of April, 1865, when one dollar of lawful money was equal to fifty-four dollars and seventy-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the twentieth day of April, 1865, when one dollar of lawful money was equal to sixty-eight dollars and forty-nine cents of Confederate States notes, and from day to day thereafter regulary increased in value until the twenty-sixth day of April, 1865, when one dollar of lawful money was equal to one hundred and thirty-two dollars and forty-five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the first day of May, 1865, when one dollar of lawful money was equal to April.

rate States notes. SEC. 3. In ascertaining the value of contracts under this Act, no division of time less than one day will be noticed.

eight hundred and thirty-three dollars and thirty-three cents of Confede-

SEC. 4. All laws or parts of laws inconsistent with, or supplied by, this Act are hereby repealed.

Approved March 26, 1869.

May.

JOINT RESOLUTIONS.

No. 1. JOINT RESOLUTION FOR THE RELIEF OF MRS. MARY A. C. HOBBS.

Be it resolved by the Senate and House of Representatives of the State Relieved of South Carolina, now met and sitting in General Assembly, and by the from double authority of the same, That the petitition of Mrs. Mary A. C. Hobbs to tax. be relieved of a double tax be granted: Provided, She pays all costs. Approved December 11, 1868.

No. 2. JOINT RESOLUTION AUTHORIZING THE TREASURER TO PAY TO Dr. Alfred Raoul three hundred and fifteen dollars for SERVICES AS PHYSICIAN TO CHARLESTON JAIL AND FOR MEDICINES FURNISHED PRISONERS.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Treasurer authority of the same, That the Treasurer of the State be, and is hereby, direct od to directed to pay to Dr. Alfred Raoul the sum of three hundred and fifteen pay. dollars (\$315) out of any moneys in the Treasury not otherwise appropriated, for three months' service as Physician of the Charleston Jail and for medicines furnished prisoners confined in the same during the months of January, February and March, 1867.

Approved December 21, 1868.

JOINT RESOLUTION AUTHORIZING THE STATE TREASURER TO PAY No. 3. TO THE CHAIRMAN OF BOARD OF COMMISSIONERS OF ELECTIONS. APPOINTED BY CONSTITUTIONAL CONVENTION, THREE HUNDRED AND TWENTY-NINE DOLLARS.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Treasurer authority of the same, That the State Treasurer be, and he is hereby, authorized to authorized to pay to the Chairman of the Board of Commissioners of pay. Elections, appointed by the Constitutional Convention, the sum of three hundred and twenty-nine (329) dollars out of any money in the State Treasury not otherwise appropriated. Approved December 21, 1868.

JOINT RESOLUTION DIRECTING THE STATE TREASURER TO PAY TO S. L. LEAPHART \$184 93-100 FOR EXTRA SERVICES AS COMP-TROLLER-GENERAL DURING THE MONTHS OF JULY AND AUGUST.

A. D. 1869. No. 4.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer be, and is hereby, directed to pay to S. L. Leaphart the sum of (\$184.93) one hundirected to dred and eighty-four 93-100 dollars for extra services performed during pay. the months of July and August, 1868, agreeably to resolution of General Assembly, and the amount aforesaid is hereby appropriated for said purpose.

Treasu r e r

Approved February 4, 1869.

JOINT RESOLUTION AUTHORIZING THE GOVERNOR TO EMPLOY AN ARMED FORCE FOR THE PRESERVATION OF THE PEACE.

No. 5.

Section 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor of the State, authorized to with the assistance of the Adjutant-General, be, and he is hereby, enlist a comauthorized to enlist a company of one hundred men, or more, if pany. in his opinion more be needed, who shall be fully armed and equipped, and, if necessary, be mounted, and that when in any County in this State it shall become impossible, from any cause, to enforce the laws and keep the peace by the ordinary civil processes, the Governor shall Authority to send as many of the aforesaid turbances. armed and equipped men into said County as, in his judgment, may be necessary to quell such disturbance and arrest the guilty parties; and that, in order to carry out the intent of this resolution, the Governor is hereby authorized to exercise any or all of the powers conferred upon him by an Act entitled "An Act to suppress insurrection and rebellion," passed on the twenty-second day of September, 1868.

Governor

Sec. 2. That the men so enlisted shall be properly officered and controlled; and that said officers and men shall receive, while in the service of the State, the same pay and allowances as are given to soldiers and to officers of the same grade in the army of the United States.

Authori t y to quell dis-

Sec. 3. Any and all expenses incurred in carrying into effect the provisions of this resolution, shall be paid out of any funds in the Treasury not otherwise appropriated; and the State shall be reimbursed for any such outlay by the levy of a special tax, in addition to all other taxes, to be collected from the people of any County into which, for the preservation of the peace, the Governor is compelled to send the force provided for in this resolution.

Organiz ed.

Pay.

SEC. 4. This resolution shall remain of full force and effect until the

militia of the State is organized and ready for service. Approved February 8, 1869.

Expenses to

A. D. 1869. No. 6.

JOINT RESOLUTION RELIEVING E. W. OLIVER, LATE SHERIFF OF FAIRFIELD COUNTY, OF A PENALTY OF FIVE PER CENT. PER MONTH UPON EXECUTIONS NOT RETURNED BY HIM.

Relieved.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That E. W. Oliver, late Sheriff of Fairfield County, be, and is hereby, relieved of the penalty of five (5) per cent. per month upon executions not returned by him within the time allowed by law during the year 1867.

Approved February 13, 1869.

JOINT RESOLUTION INSTRUCTING THE STATE TREASURER TO PAY No. 7. THE ACCOUNT OF B. H. RICE & Co. IN UNITED STATES CUR-RENCY.

State Treasurer directed

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer be, and he is hereby, instructed to pay the account of B. H. Rice & Co., \$7,326.62, for articles furnished State Penitentiary, in United States currency.

In the Senate House the fifth day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

D. T. CORBIN, President of the Senate pro tem. FRANKLIN J. MOSES, Jr., Speaker House of Representatives.

> Office Secretary of State, COLUMBIA, S. C., March 9, 1869.

The foregoing Act having been presented to the Governor of this State for his approval, and not having been returned by him to the branch of the General Assembly in which it originated within the time prescribed by the Constitution, has become a law without his approval.

F. L. CARDOZO, Secretary of State of South Carolina.

JOINT RESOLUTION TO PROVIDE FOR THE FITTING UP OF CER-No. 8. TAIN PORTIONS OF THE STATE HOUSE.

Section 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Authorized and by the authority of the same, That His Excellency the Governor is to invite pro- hereby authorized and empowered to invite proposals to complete so much of the State House as will be necessary for the accommodation of the Executive, Judicial and Legislative Departments, and to enter into a specified contract with such person or persons as he may deem proper, and for the best interests of the State, requiring from the contractor sufficient bonds to secure the State from any loss, and to insure the fulfillment of the contract.

A. D. 1869.

SEC. 2. That the Governor be, and he is hereby, authorized and empowered to draw from the State Treasury, on demand of the contractor, from the State Treasury, or demand of the contractor, State Treasury, or demand of the contractor, from the State Treasury, or demand of the contractor, state Treasury, or demand of the contractor, from the State Treasury, or demand of the contractor, state Treasury, state Treasury, state Treasury, state Treas such sums as the contractor may, from time to time, as the work progresses, ury. call for, not to exceed the sum of twenty-five thousand (25,000) dollars.

To draw

SEC. 3. That the Governor shall make such conditions with the contractor, that the work shall be completed on the first day of November pleted in Nonext; and that the Governor is requested, at the next regular session of vember. the General Assembly thereafter, to make a full and specified report of the transaction.

To be com-

Approved March 13, 1869.

JOINT RESOLUTION RELIEVING J. M. WILDER, LATE SHERIFF, No. 9. OF SUMTER COUNTY, OF THE PENALTY OF FIVE PER CENT. PER MONTH UPON EXECUTIONS NOT RETURNED BY HIM.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That J. M. Wilder, late Sheriff of Sumter County, be, and he is hereby, relieved of the penalty of (5) five per cent. per month upon executions not returned by him within the time allowed by law during the year 1867.

Relieved of penalty.

Approved March 13, 1869.

JOINT RESOLUTION AUTHORIZING THE GOVERNOR TO PURCHASE Two Thousand stands of Arms of the most improved pattern, WITH USUAL COMPLEMENT OF AMMUNITION.

No. 10.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor be, and he is hereby, empowauthorized to ered to purchase, for the use of the State, two thousand stands of arms, purchase of the most improved pattern: Provided, That a serviceable and satisfactures. tory arm cannot be procured from the United States; with the usual complement of ammunition, and that the same be paid for out of any money in the Treasury not otherwise appropriated.

Approved March 16, 1869.

JOINT RESOLUTION AUTHORIZING THE GOVERNOR TO CAUSE SUIT TO BE INSTITUTED AGAINST THE LAURENS RAILROAD COMPANY, TO PROTECT THE INTERESTS OF THE STATE.

No. 11.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the

to be instituted.

authority of the same. That the Governor be, and he is hereby, authorized and requested to cause to be instituted forthwith, for and on behalf of the Proceedings State, legal or other proceedings against the Laurens Railroad Company, for the purpose of enforcing the payment of all interest due on the bonds of said company whenever the guaranty of the State is endorsed, and protecting and securing the State against any loss or damage by reason of said guaranty; and to this end to enforce the rights of the State by virtue of the statutory lien or mortgage held by the State on the property of the said company.

Approved March 16, 1869.

No. 12. JOINT RESOLUTION RATIFYING THE FIFTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

Whereas both Houses of the Fortieth Congress of the United States Preamble. of America, at its third session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the United States of America in the following words, to-wit:

> A RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

> Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, (two-thirds of both Houses concurring,) That the following Article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XV.

Fifteen t h amendment.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any any State, on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this Article by ap-

propriate legislation.

Ratified.

Section 1. Therefore, be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the General Assembly of the State of South Carolina.

To be transmitted.

Sec. 2. That certified copies of this preamble and joint resolution be forwarded by the Governor of this State to the President of the United States, to the presiding officer of the United States Senate, and to the Speaker of the United States House of Representatives.

Approved March 16, 1869.

JOINT RESOLUTION TO PROVIDE FOR THE PUBLICATION OF THE Acts, Reports, Resolutions and Journals of the General Assembly.

A. D. 1869. No. 13.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the General and authority of the same, That the Attorney-General and Secretary of State State authorbe, and they are hereby, authorized to provide for the publication, in ized to pubsuch newspapers of the State as may by them be deemed necessary, of the lish laws. Acts and Resolutions of the General Assembly. And they are further authorized to arrange and prepare three thousand five hundred (3,500) prepare and copies of the same for publication in pamphlet form, and superintend the superintend. execution of the work; and the Treasurer is hereby authorized and directed to pay all accounts for the said work, after being duly audited by the Attorney-General and Secretary of State, out of any funds appropriated for the payment of the expenses of the General Assembly. The Attorney-General and Secretary of State be, and they are hereby, au-counts for thorized to audit the accounts for all other permanent printing for the printing. General Assembly, and the Treasurer is authorized and directed to pay the same out of any moneys in the Treasury appropriated for the payment of the expenses of the General Assembly. On the completion of Delivered to the permanent work, it shall be delivered to the Secretary of State, who Secretary of is hereby directed to forward, by mail or otherwise, as he may deem ex- Distribution. pedient, a copy to each of the members of the General Assembly, and one to each of the State and County officers entitled to the same.

Attorney-Secretary of

To arrange,

Approved March 19, 1869.

JOINT RESOLUTION TO AUTHORIZE AND DIRECT THE COMPTROL-LER-GENERAL OF THE STATE TO PROVIDE AND FURNISH OFFICES FOR OFFICERS OF THE EXECUTIVE DEPARTMENT.

No. 14.

SECTION 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Comptroller-General of the State be, and he is hereby, authorized and directed, upon his receipt of a written application from any officer of the State Executive Department, to provide and furnish an office for the use of said officer.

Office to be

Sec. 2. That all accounts of expenses, incurred in carrying out the provisions of this Act, shall be audited by the Comptroller-General, who ted. shall, if he approve the same, draw his warrant for the payment thereof on the State Treasurer, who shall pay the same out of the contingent fund of the State.

Approved March 23, 1869.

37

A. D. 1869. JOINT RESOLUTION TO AUTHORIZE THE GOVERNOR OF THE STATE TO FILL THE VACANCIES NOW EXISTING IN THE STATE BOARD OF

EQUALIZATION.

No. 15.

Preamble.

Whereas, by inadvertence, the Governor of the State failed to give notice of the election of members of the State Board of Equalization, at the last general election in this State, in accordance with the provisions of the sixty-seventh Section of "An Act providing for the assessment and taxation of property," passed September 15, 1868; therefore,

Governor authorized.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor of the State be, and he is hereby, authorized and required to fill the existing vacancies in the State Board of Equalization, by the appointment of some suitable person, who shall be a resident and elector of the district for which he is appointed, for each Congressional District in the State.

Approved March 25, 1869.

JOINT RESOLUTION AUTHORIZING THE STATE TREASURER TO AP-No. 16. PORTION TO THE SEVERAL COUNTIES THE APPROPRIATION OF \$25,-000 AUTHORIZED IN GENERAL ORDER No. 139, OF DECEMBER 3, 1867, HEADQUARTERS SECOND MILITARY DISTRICT, FOR THE SUP-PORT OF FREE SCHOOLS, SAME TO BE PAID OVER TO THE RESPEC-TIVE COUNTY TREASURERS, IN ORDER TO PAY CLAIMS OF TEACH-ERS.

ment.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the Apportion- authority of the same, That the State Treasurer be, and he is hereby, authorized to apportion to the several Counties of the State, according to the number of their representatives in the lower branch of the General Assembly, the appropriation of twenty-five thousand dollars authorized in General Order No. 139, issued by General Canby, and bearing date December 3, 1867, for the support of free schools, and to pay over the amount each County may be entitled to under said apportionment to the

Treasurer Treasurer thereof, who shall be, and is hereby, empowered to pay the authorized to pay.

proved.

commencing October 31, 1867, in accordance with the provisions of the aforesaid General Order, after said claims shall have been certified by To be an the School Commissioners of said County and approved by the State Superintendent of Education: Provided, That all such claims shall be presented for payment on or before the thirtieth day of June, A. D. 1869: And provided, further, That if, in any County, the amount of claims presented shall be in excess of the amount of money apportioned to said County, said claims shall be paid pro rata.

claims of all teachers for services rendered in his County during the year

Approved March 26, 1869.

use#pd-google http://www.hathitrust.org/access JOINT RESOLUTION TO AUTHORIZE THE SECRETARY OF STATE TO PURCHASE, FOR DISTRIBUTION AND EXCHANGE, CERTAIN STATE RE-PORTS.

A. D. 1869. No. 17.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authorized to purchase, for distribution, such of the previous volumes of State authorized to purchase, for distribution, such of the previous volumes of State authorized to purchase. the State Reports, both of law and equity, as he may deem necessary to chase. complete the exchanges now being made with the other States of this Union: Provided, The amount of expense does not exceed five hundred (500) dollars.

Secretary of

Approved March 26, 1869.

JOINT RESOLUTION TO DISSOLVE THE BOARD OF SPECIAL COMMISSIONERS APPOINTED FOR OCONEE COUNTY, UNDER AN ORDI-NANCE OF THE CONSTITUTIONAL CONVENTION ENTITLED "AN ORDI-NANCE TO DIVIDE PICKENS DISTRICT INTO TWO ELECTION AND JUDICIAL DISTRICTS," ADOPTED THE 29TH DAY OF JANUARY, A. D. 1868.

No. 18.

Preamble.

Whereas, by an Ordinance of the Constitutional Convention of South Carolina, adopted the twenty-ninth day of January, A. D. 1868, entitled "An Ordinance to divide Pickens District into two Election and Judicial Districts," a special Commission, consisting of five persons from each of the Counties of Oconec and Pickens, was appointed, whose duty it was made to select suitable locations for the public buildings in said Counties, to purchase lands in the name of the State, and sell them in lots to raise funds for the erection of said public buildings; and whereas the special Commissioners of Oconee County, in pursuance of the powers vested in them by said Ordinance, did locate the County seat for Oconee County at Walhalla, and discharged the duties devolving on them to the extent of selling said lands in lots and taking a bond from responsible parties for the erection of public buildings for the proceeds of said sale of lots in July last; and whereas the special Board of Commissioners has been virtually dissolved by the removal of some of its members from and without the limits of this State, and the desire of others to be relieved, on account of important public and private business, and the great distance at which they live from the County seat; and whereas, by an Act entitled "An Act to define the jurisdiction and duties of County Commissioners," it is specially incumbent on the County Commissioners to superintend all public works in the County; therefore,

Section 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Asssembly, and by the authority of the same, That said Board of Special Com-Special Commissioners be, and is hereby, dissolved, and that the powers and duties missioners dissolved. vested in it be hereafter discharged by the Board of County Commission-

Board of

County Commissioners.

ers for said County, who shall have power to amend or cancel any existing contract by and with the consent of the contracting party or parties, Powers of and who shall also have power to assess a County tax, if necessary, to meet any additional expenses incurred, and to provide offices for County officers, and a room for holding Court at Walhalla, until the court house is completed.

Special to look over moneys and papers.

SEC. 2. That it shall be the duty of the Chairman of said special Com-Commission mission to turn over to the Board of County Commissioners, all moneys on hand, notes, and other evidences of debt, together with all records and other papers belonging to said Special Board.

Responsibilfailuro.

SEC. 3. That each and every member of the said special Commission ity in case of shall be held individually responsible for any neglect of duty or unauthorized proceeding on his part up to the time of transfer, and for the failure, on the part of any Commissioner or Commissioners, whose duty it may be to comply with the provisions of the preceding Section, and that the Chairman of said Board, upon failure to comply with provisions embraced in the preceding Section, after ten days' notice from the Chairman of the Board of County Commissioners, shall be held responsible to the extent of damages arising thereon and fifty per cent.

Damages.

Approved March 26, 1869.

JOINT RESOLUTION AUTHORIZING THE COUNTY COMMISSIONERS No. 19. OF OCONEE COUNTY TO SELL THE INTEREST OF THE STATE IN THE KEOWEE AND TUCKASEEGEE TURNPIKE COMPANY.

State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners of the Commissioners au- County of Oconee be, and they are hereby, authorized to sell to the thorized to highest bidder, after due notice given through the public press of said sell road. County or otherwise, all the interest of the State in the road known as Proceeds to the Keowee and Tuckaseegee Turnpike Road. The proceeds of said sale,

be paid into after deducting all needful expenses, to be paid into the Treasury of the Treasury.

Provided, That the purchaser or purchasers shall bind himself Conditions. or themselves to put and keep said highway in good repair, and be liable to all parties injured, in person or property, by his or their neglect so to Failure to comply with these conditions shall work a forfeiture to the State of all property and privilege conveyed under this resolution.

Be it resolved by the Senate and House of Representatives of the

Approved March 26, 1869.

JOINT RESOLUTION TO APPOINT A COMMITTEE OF INVESTIGATION No. 20. FOR THIRD CONGRESSIONAL DISTRICT.

> Section 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly,

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and by the authority of the same, That a Committee, consisting of two members of the Senate and five members of the House, is hereby created and empowered to proceed, during the recess, to thoroughly investigate the disordered state of affairs in the Third Congressional District, and the causes of the intimidation, outrages and murders perpetrated preceding and at the late general election, whereby it is stated that a fair and gate outrages unbiased expression of the people's choice could not, and was not, given; and of the existence of organizations inimical to the peace and well being of the State.

A. D. 1869. Committee appointed.

To investi-

SEC. 2. Said Committee may proceed to the various Counties em- Proceed to SEC. 2. Said Committee may proceed to the various countries combraced in the Third Congressional District, and are empowered to com- various strategy braced in the Third Congressional District, and are empowered to com- Countries. pel the attendance of witnesses, and to send for papers. They may also employ a stenographer, and, if necessary, may employ a lawyer to assist in the investigation.

SEC. 3. Said Committee shall be appointed by the presiding officers of the Senate and House of Representatives, and shall be composed of at appointed. least two Democratic members. They shall receive the same per diem and mileage, while actually engaged, as is paid to members of the General Assembly, the same being paid in the usual way, from any money in the Treasury not otherwise appropriated.

How to be

Sec. 4. His Excellency the Governor is hereby requested to furnish said Committee all information in his possession bearing upon the object requested to furnish inforof this investigation, and is hereby required to furnish them all necessary facilities and protection in visiting the Counties.

Approved March 26, 1869.

JOINT RESOLUTION TO AUTHORIZE THE SECRETARY OF STATE TO PURCHASE THIRTY-EIGHT COPIES OF RICHARDSON'S REPORTS, &C.

No. 21.

Whereas the copies of the State Reports, authorized to be purchased by law, are not sufficient to complete our exchanges with the other States; therefore.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and Secretary of by the authority of the same, That the Secretary of State be, and he is State authorhereby, authorized to purchase thirty-eight copies of Richardson's Equity chase. Reports, Volume 13; thirty-eight copies of Richardson's Law Reports, Volume 14; and also a like number of Richardson's Law and Equity, Volume 13, and Volume 12, Equity.

ized to pur-

Approved March 26, 1869.

STATE OF SOUTH CAROLINA,

Passed at the Regular Session, which was begun and held at the city of Columbia, on the fourth Tuesday in November, A. D. 1869, and was adjourned, without day, on the first day of March, A. D. 1870.

ROBERT K. Scott, Governor. D. T. Corbin and Chas. W. Mont-GOMERY, Presidents of the Senate. Franklin J. Moses, Jr., Speaker of the House of Representatives.

AN ACT TO REGULATE THE FORMATION OF CORPORATIONS.

A. D. 1869. No. 188.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, Three or more persons who shall have associated themselves together by articles of agreement, in writing, for the purpose of carrying on any mechanical, mining, quarrying or manufacturing business, and shall have complied with the provisions of this clating to en-Act, shall be and remain a corporation, under any name indicating their terinto agreecorporate character, assumed in their articles of association, and which is not previously in use by any other corporation or company.

SEC. 2. The purpose for, and the place within, which such corporation is established, shall be distinctly and definitely specified in the articles of place to be association, and such corporation shall not direct its operations or appro-

Purpose and

priate its funds to any other purpose.

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When first meeting shall

SEC. 3. The first meeting of such corporations, hereafter organized, shall be called by notice, signed by one or more of the persons named in be called. such agreement, stating the time, place and purposes of the meeting, a copy of which shall, seven days at least before the meeting, be given to each member, or published in some newspaper printed in the County where the corporation is to be located.

SEC. 4. If doubts arise whether any such corporation is legally How legality organized, the stockholders, at a special meeting called for the purpose, may be firmed. under their by-laws, or under the preceding Section, may, by vote, confirm such organization and all proceedings under it; and by so doing, and depositing one copy of such vote with the Clerk of the Court of Common Pleas for the County where the corporation is located, and one with the Secretary of State, such corporation and the subsequent acts thereof shall be held legal and valid, as if the original organization had been legal. 38

By-laws.

By whom bu-siness shall be managed.

Officers to be elected annually.

Directors and President.

Clerk.

give bond.

How Stockholders may vote by proxy

Quorum.

How capital stock, legally fixed, may be increased.

New Company shall fix capital stock.

Certificates of shares.

May fix, and increase or di-

SEC. 5. Every corporation so organized, and its officers and stockholders, may make by-laws not repugnant to the laws of the State, with penalty for the breach thereof not exceeding twenty dollars for each offence.

Sec. 6. The business of the company or corporation shall be managed and conducted by a President, or Board of Directors, a Clerk, Treasurer, and such other officers and agents and factors as the company authorizes for that purpose.

SEC. 7. The Directors, Clerk and Treasurer shall be chosen annually by the stockholders, and shall hold their offices until others are chosen and qualified in their stead. The manner of such choice, and the mode The mode of the choice or appointment of all other agents, factors and officers of the company, shall be prescribed by the by-laws.

SEC. 8. The number of the Directors shall not be less than three; one of them shall be chosen President by the Directors, or by the company,

as the by-laws shall direct.

SEC. 9. The Clerk shall be sworn, and shall record all the votes of the company in a book to be kept for that purpose, and perform such other Treasurer to duties as shall be assigned to him. The Treasurer shall give bond in such sum, and with such sureties, as shall be required by the by-laws, for the faithful discharge of his duty.

SEC. 10. At all meetings of the Company, absent stockholders may vote by proxy, authorized in writing, but no proxy shall be valid unless executed and dated within six months previous to the meeting at which it is used, if the maker thereof resides in the United States; and no person shall, as proxy or attorney, cast more than fifty votes, unless all the shares so represented by him are owned by one person, and no officer of the corporation, as proxy or attorney, shall cast more than twenty votes. Every Company may determine, by its by-laws, what number of stockholders shall attend, either in person or by proxy, or what number of shares or amount of interest shall be represented at any meeting to constitute a quorum. If the quorum is not so determined, a majority in interest of the stockholders shall constitute a quorum.

SEC. 11. The capital stock of every Company, the amount whereof has been fixed and limited by such Company according to law, shall remain so fixed, subject to be increased or reduced pursuant to the provisions of this Act.

SEC. 12. The amount of the capital stock of every Company not organized shall be fixed and limited by the Company, and shall, at its first meeting, be divided into shares, of which a record shall be made by the Clerk.

SEC. 13. The shares shall be numbered, and every stockholder shall have a certificate under the seal of the corporation, and signed by the Treasurer, certifying his property in such shares as are expressed in the

SEC. 14. The amount of capital stock of such corporation shall be fixed and limited in its articles of association. The corporation may increase or minish, capi. and limited in its articles of association. The capital shall never tal stock and diminish its amount and the number of shares at any meeting of the stockholders specially called for the purpose; but the capital shall never be less than five thousand, nor more than five hundred thousand dollars, and no share shall be issued for less than its par value.

SEC. 15. Such corporation may, in its corporate name, take, hold and

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convey such real and personal estate as is necessary for the purposes of its organization; may carry on its business, or so much thereof as is convenient, beyond the limits of the State, and may there purchase and hold and personal property.

A. D. 1969.

SEC. 16. Before such corporation commences pushes, who I state to be publish-to be publish-three times in some newspaper, printed in the town or County wherein thereof to be such corporation is situated, and deposit with the Secretary of State a filed with the secretary of the association forth the corporate name and purpose of the association forth the corporate name and purpose of the association. tion, the amount of the capital stock, the amount actually paid in, and the par value of the shares in the corporation, and shall file a copy thereof with the Clerk of the Court of Common Pleas, in the County wherein the corporation is situated, to be by him recorded in a book kept for the purpose. Within thirty days after the payment of any installment called for by the Directors, a certificate thereof shall be in like manner signed, sworn to, deposited, filed and recorded.

SEC. 17. When the capital stock and shares of any such corporation Capital stock reduced. are increased or reduced, under the provisions of Section 14, a certificate thereof shall be made, signed, sworn to, deposited and recorded in the manner aforesaid.

SEC. 18. Shares may be transferred by the proprietor by an instrument shares. in writing, under his hand, and recorded by the clerk of the corporation, in a book to be kept for that purpose. The purchaser named in such instrument, so recorded, shall, on producing the same to the Treasurer, and delivering to him the former certificate, be entitled to a new certificate.

Sec. 19. Every Company may, from time to time, at a legal meeting upon shares. called for the purpose, assess upon each share such sums of money as the Company think proper, not exceeding, in the whole, the amount at which each share was originally limited, and such sums assessed shall be paid to the Treasurer at such times and by such installments as the Company directs. No note or obligation given by the stockholder, whether secured by pledge or otherwise, shall be considered as payment of any part of the capital stock.

Assessments

Sec. 20. If the proprietor of any share neglect to pay a sum duly assessed thereon, for the space of thirty days after the time appointed for pay assessm't. payment, the Treasurer of the Company may sell at public auctions a Sale of shares. sufficient number of his shares to pay all assessments then due from him, with the necessary incidental charges.

Sec. 21. The Treasurer shall give notice of the time and place ap- Mode of sale. pointed for such sale, and of the sum due on each share, by advertising the same three weeks successively before the sale, in some newspaper printed in the County where the corporation is established, and if there is no such paper, then in some newspaper printed in an adjoining County, and a deed of the shares so sold, made by the Treasurer, and acknowledged before a Justice of the Peace or Magistrate, and recorded as provided in Section 18, shall transfer said shares to the purchaser, who shall be entitled to a certificate therefor.

SEC. 22. The members of every Company shall be jointly and severally liable for all debts and contracts made by the Company, until the whole amount of capital stock fixed and limited by the Company in manner aforesaid, is paid in and a certificate thereof made and recorded as prescribed in the following Section.

Increase of capital stock.

SEC. 23. The President and Directors, with the Treasurer and Clerk of such Companies, shall, after the payment of the last installment of the such Companies, shall, after the payment of the last installment of the capital stock, make a certificate, stating the amount of the capital so tal paid to be fixed and paid in, which certificate shall be signed and sworn to by the filed in registery of Meane President, Treasurer, Clerk, and a majority of the Directors, and they shall cause the same to be recorded in the Registry of Mesne Conveyance for the County wherein the corporation is established.

Sec. 24. If a company increases its capital stock as before provided in this Act, the officers mentioned in the preceding Section, after payment of the last installment of such additional stock, shall make a certificate of the amount so added and paid in, sign and swear to the same, and cause it to be recorded in the manner therein provided.

Neglect

Sec. 25. If any of said officers refuse or neglect to perform the duties required of them in the two preceding Sections, they shall be jointly and severally liable for all debts of the Company contracted after the expiration of thirty days from the payment of the last installment, and before such certificate is so recorded.

Diminution of the capital stock.

SEC. 26. If a corporation diminish its capital stock as hereinbefore provided, a certified copy of the resolution or vote for that purpose shall be recorded in the Registry of Mesne Conveyance for the County wherein the Company are established, and in default thereof, the Directors of the Company shall be jointly and severally liable for all debts of the Company contracted after thirty days from such reduction, and before the recording of such copy.

Part of capi-tal stock withdrawn.

Sec. 27. If any part of the capital stock of a Company is withdrawn and refunded to the stockholders before the payment of all the debts of the Company contracted previously to the recording of the copy of the vote for that purpose in the Registry of Mesne Conveyance, as prescribed in the preceding Section, all stockholders of the Company shall be jointly and severally liable for the payment of such debts.

Certain cer-tificates to be filed in Court of Common Pleas, &c.

SEC. 28. Every corporation organized under the provisions of this Act shall file the certificates required of corporations by Sections 23 and 24, and the Directors shall make, and the President, Treasurer and a majority of the Directors shall sign, swear to and deposit with the Clerk of the Court of Common Pleas for the County in which said corporation is established or located, within thirty days after the date of the annual or semiannual meeting, next preceding the date of such certificate, a certificate stating the date of such annual and semi-annual meeting, the amount of capital stock paid in, the name and number of shares held by such stockholders, the amount vested in real estate and in personal estate, the amounts of property owned by, and debts due to the corporation, and the amount, as nearly as can be ascertained, of existing demands against the corporation; all as ascertained and exhibited at the date of such an annual or semi-annual meeting.

Liabilities for violation.

SEC. 29. If the officers of any such corporation violate the provisions of Section 2, or neglect or refuse to perform the duties required by Sections 16, 17 and 28, they shall be jointly and severally liable for all debts of the corporation contracted during the continuance of such violation, refusal or neglect.

Remedy.

Sec. 30. When the officers of such corporation have failed to perform the duties prescribed in Sections 16, 17 and 28, the certificates therein mentioned may be made, filed and published at any time after such failure, and such officers shall not be personally liable for the debts of the corporation contracted after the requisitions of said Sections have been complied with.

A. D. 1869.

SEC. 31. If the Directors of any Company formed under this Act Payment of dividend if indeclare and pay any dividend, when the Company is insolvent, or the solvent. payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the Company, then existing, and for all thereafter contracted, so long as they respectively continue in office: Provided, That the amount for which they shall all be so liable shall not exceed the amount of such dividend, and if any of the Directors are absent at the time of making the dividend, or object thereto, and file their objection in writing with the Clerk of the Company, they shall be exempted from such liability.

Liabilities.

SEC. 32. No loan of money shall be made by such Company to stockholders therein, and if any such loan is made to a stockholder, the officers holders. who make it or assent thereto, shall be jointly and severally liable to the extent of such loan and interest, for all the debts of the Company

Loan of mo-

contracted before the re-payment of the sum so loaned.

SEC. 33. The whole amount of the debts which any such Company at Debts not to exceed capiany time owes, shall not exceed the amount of its capital stock actually tal stock. paid in; and in case of any excess, the Directors under whose administration it occurs, shall be jointly and severally liable to the extent of such excess, for all the debts of the Company then existing, and for all that are contracted, so long as they respectively continue in office, and until the debts are reduced to the amount of the capital stock: Provided, That any able. of the Directors, who are absent at the time of contracting any debt contrary to the foregoing provisions, or who object thereto, may exempt themselves from liability, by forthwith giving notice of the fact to the stockholders at the meeting they may call for that purpose.

Directors li-

Proviso.

SEC. 34. If any certificate made or public notice given by the officers of a Company, in pursuance of the provisions of this Act, is false in any material representation, all the officers who signed the same, knowing it to be false, shall be, jointly and severally, liable for all the debts of the Company contracted while they were stockholders or officers thereof.

SEC. 35. When any of the officers of a Company are liable, by the officers liaprovisions of this Act, to pay the debts of the Company, or any part thereof, any person to whom they are so liable may have an action proceeded against. against any one or more of said officers, and the declaration in such action shall state the claim against the Company, and the grounds on which the Plaintiff expects to charge the Defendants, personally; and such action may be brought, notwithstanding the pendency of an action against the Company for the recovery of the same claim or demand; and both of the actions may be prosecuted until the Plaintiff obtains the payment of his debt, and the cost of both actions.

SEC. 36. When the stockholders of such a Company are liable, by the provisions of this Act, to pay the debts of such Company, or any part thereof, their property may be taken therefor, on an order of attachment, or on execution issued against the Company for such debt, in the same manner as on orders of attachment and executions issued against them for their individual debts.

SEC. 37. An officer or stockholder of a Company, who voluntarily or by compulsion pays a debt of the Company, for which he is made liable A. D. 1869.

by the provisions of this Act, may recover the amount so paid, in an action against the Company, paid for its use, in which action the property of the Company only shall be liable to be taken, and not the property of any stockholder.

Secretary of

SEC. 38. The Secretary of State shall annually prepare, cause to be State to print shared from printed, and on the fourth Tuesday of November submit to the General nied with him Assembly a true abstract from the certificates required by this Act to be deposited with him.

Sec. 39. The words "Corporation" and "Company" shall be construed

as synonymous or interchangeable terms in this Act.

Additional privileges.

Sec. 40. Corporations organized for the purpose of manufacturing cotton or woolen goods may, upon the consent of four-fifths of the stockholders, by vote, at a meeting called for the purpose, carry on the manufacture of silk, linen, wax or India rubber goods.

Legislature

SEC. 41. The Legislature may amend or repeal this Act so as to efmay amend DEC. 41. The Legislature may amend or repeal cor- fect existing Corporations, and may, by special Acts, annul or dissolve any such Corporation.

Repealing clause.

Sec. 42. The Act entitled "An Act to authorize and regulate the creation of private Corporations within this State," approved the twentieth day of December, A. D. 1866, is hereby repealed, in respect to all Corporations hereafter to be formed; but its provisions shall remain of force as to all Corporations which have already been organized under said Act: Provided, All Corporations organized under said Act may re-organize under the provisions of this Act.

Approved December 10, 1869.

No. 189. AN ACT to Determine the Manner of Collecting Taxes Past Due, assessed under the late Provisional and Military Gov-ERNMENT OF SOUTH CAROLINA.

to collect.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Treasurers and by the authority of the same, That from and after the passage of this Act, all past due and unpaid taxes, State or County, laid or levied under or by authority of the late Provisional Government, or under or by virtue of military orders, shall be paid and collected in the same manner by the Tax Collect. County Treasurer, to whom the late Tax Collectors shall turn over all turn moneys, books, tax executions, papers and other property, now in their possession, as is provided in the Act entitled "An Act to provide for the assessment and taxation of property," ratified the fifteenth day of September, A. D. 1868.

ors to turn over books, moneys, &c.

Executions returned nulla bona.

SEC 2. Fees for the actual collection of taxes only shall hereafter be allowed, and no costs or expenses shall be paid by the County or State on any executions issued, or hereafter to be issued, and returned nulla bona.

Repealing clause.

Sec. 3. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

Approved December 16, 1869.

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AN ACT TO AMEND AN ACT ENTITLED "AN ACT PROVIDING FOR THE Assessment and Taxation of Property."

A. D. 1869. No. 190.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section 139 of an Act entitled "An Act providing for the assessment and taxation of property," be, and the same is hereby, amended so as to read, after the word "Act," in the third line, "except those assigned to assessment districts of more than three miles square, who shall each receive four dollars per day."

Amendment.

Approved December 16, 1869.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND THE LAW IN RELATION TO RECORDING MORTGAGES, AND TO REGULATE THE LIEN THEREOF."

Whereas, the office of the Secretary of State has been removed from the city of Charleston, and great inconvenience and delay has been caused by the provision of the Act ratified on the 19th of December, A. D. 1843, which requires mortgages of personality in Charleston County to be recorded in the office of the Secretary of State; therefore,

Preamble.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That so much of the second Sec- clause. tion of the Act of 1843 as requires mortgages of personal property in the County of Charleston to be recorded in the office of the Secretary of State be, and the same is hereby, repealed, and that from and after the passage of this Act, all such mortgages of personal property, in Charlesberger recorded ton County, shall be recorded in the office of the Register of Mesne Conveyance for the said County, in the manner, and within the time preveyance for the said County of Spid State. scribed by said Act for other Counties of said State.

Repealing

Charleston.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ENUMERATION OF THE INHABITANTS OF THIS STATE."

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That so much of Section 6 of an Act to provide for the enumeration of the inhabitants of this State, approved March 19th, 1869, as required that the work shall be completed by the first day of November, 1869, is hereby repealed.

Repealing

SEC. 2. That the time for the completion of the Census returns is Amendment. hereby extended to the thirty-first (31st) day of December, in the present

year. Approved December 18, 1869.

Approved December 16, 1869.

A. D. 1869,

AN ACT TO INCORPORATE THE CLAFLIN UNIVERSITY.

No. 193.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That A. Webster, T. W. Lewis, Sam-Corporators. uel Weston, R. K. Scott, Thomas Philips, Abram Middleton, Simeon Corley and J. A. Sasportas, their associates and successors, are hereby constituted a body corporate, by the name of the Trustees of the Classian University, and they and their successors, and such as shall be duly elected members of said corporation, shall be and remain a body corpo-Trustees- rate by that name forever; and for the orderly conducting of the busitheir powers. ness of said corporation, the said Trustees shall have power and authority,

from time to time, as occasion may require, to elect a President, Vice-President, Secretary and Treasurer, and such other officers of said corpo-

Trustees.

ration as may be found necessary, and to declare the duties and tenures nemoval of of their respective offices; and also, to remove any Trustee from the said corporation, when, in their judgment, he shall be rendered incapable, by age or otherwise, of discharging the duties of his office, or shall neglect

Proviso.

or refuse to perform the same, and to elect new members of said corporation: Provided, nevertheless, That the number of members shall never be less than seven, and more than twenty-one, and their qualifications and term of service shall be fixed at the first meeting of the corporation, which may be appointed at the call by any three of the Trustees herein named, at any time after the passage of this Act. SEC. 2. The said corporation shall have full power and authority to

determine at what times and places their meetings shall be holden, and the manner of notifying the Trustees to convene at such meetings; and

structors, &c.

Empowered

Houses and other buildings may be constructed.

By-Laws.

Proviso.

Seal of corporation.

also, to establish boards of instruction in all departments of science and Election of In- the arts, to elect a President of said University, and such professors, tutors, instructors, and other University officers, as they shall judge for the interest thereof, and to determine the duties, salaries, emoluments, responsibilities and tenures of their respective offices. And the said corporation is further empowered to hold and control the buildings formerly known as the Orangeburg Female College, located in the town of Orangeto hold cer-tain buildings burg, in the County of Orangeburg, and State of South Carolina, to be hereafter known as the Classin University, with all lands and appurtenances which may be transferred to said corporation, for the purpose of aiding and sustaining said institution in promoting the interests of education. This corporation may purchase or erect, and keep in repair, such houses and other buildings as they shall judge necessary for the said University; and also, to make and ordain, as occasion may require, reasonable rules, orders and by-laws, not repugnant to the Constitution and laws of this Commonwealth, with reasonable penalties, for the good government of the said University, and for the regulation of their own body; and also, to determine and regulate the courses of instruction and departments in said University, and to confer degrees: Provided, nevertheless, That no degrees shall be conferred except upon the recommendation of the appropriate Faculty, and the approval of the Trustees.

SEC. 3. That the said corporation may have a common seal, which they may alter or renew at their pleasure, and all deeds sealed with the seal of said corporation, and signed by their order, shall, when made in their corporate name, be considered in law as the deeds of said corporation; and said corporation may sue and be sued in all actions, real, personal and mixed, and may prosecute the same to final judgment and execution, by the name of the Trustees of Classin University; and said corporation shall be capable of taking and holding in fee simple, or any less tates, real or estate, by gift, grant, devise, bequest, or otherwise, any land, tenements, personal, &c. or other estate, real or personal: Provided, That the clear annual income of the same shall not exceed fifty thousand dollars.

A. D. 1869.

To hold es-

SEC. 4. That the clear rents and profits of all the estate, real and personal, of which the said corporation shall be seized and possessed, shall be profits. appropriated to the maintenance and endowment of said University, in such manner as shall most effectually promote virtue, and piety and learning, in such of the languages, and of the liberal and useful arts and sciences as shall be recommended from time to time by the said corporation, they conforming to the will of any donor or donors in the application of any estate which may be given, devised or bequeathed for any particular object connected with the University.

Rents and

Donations.

SEC. 5. No instructor in said University shall ever be required by the Trustees to have any particular complexion or to profess any particular religious opinions as a test of office, and no student shall be refused ad- &c., prohibitmission to, or denied any of the privileges, honors, or degrees of, said University on account of race, complexion or religious opinions which he may entertain: Provided, nevertheless, That this Section, in reference only to religious opinions, shall not apply to the theological department of said University.

Discrimination on ac-

Proviso.

SEC. 6. That this Act shall take effect upon its passage.

Approved December 18, 1869.

AN ACT TO PROVIDE FOR THE PAYMENT OF THE INTEREST OF THE Nc. 194. Bonds and Stocks of this State in Coin.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General As-bonds, &c., to sembly, and by the authority of the same, That the interest on the bonds coin. and stocks of this State, except those issued during the period from December first, (1st,) A. D. eighteen hundred and sixty, (1860,) to April nineteenth, (19th,) A. D. eighteen hundred and sixty-five, (1865,) shall be paid in gold or silver coin: Provided, That the interest on bonds issued for the building of the new State House shall not be excluded from being paid in coin by any provision of this Act.

Interest of

Proviso.

SEC. 2. That the Tresaurer of this State is hereby authorized and required to make the necessary exchanges, through the Financial Agent of carry into effect. this State in New York, to carry this Act into effect.

SEC. 3. That this Act shall take effect immediately.

Approved December 18, 1869.

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A. D. 1869. AN ACT IN RELATION TO THE OFFICE OF REGISTER OF MESNE CON-VEYANCE FOR THE COUNTY OF CHARLESTON, AND TO FIX THE TENURE No. 195. OF WILLIAM J. McKINLAY, ELECTED THERETO.

Preamble.

Whereas, William J. McKinlay was duly elected to the said office, by the General Assembly, on the 9th day of December, A. D. 1868, was commissioned, according to law, and qualified on the 6th day of January, 1869; and whereas, by reason of proceedings pending in the Courts, in reference to the time at which his term of office commences, he has not been enabled to enter on the duties of said office; therefore,

Term of office.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the term of office of the said William J. McKinlay, as Register of Mesne Conveyance, for the County of Charleston, shall continue for four years from the date on which he shall enter on the duties of the same, and until his successor therein shall duly qualify and enter upon the duties of said office.

Repealing

SEC. 2. All Acts or parts of Acts inconsistent with this Act, or in any way conflicting with the provisions of this Act, are hereby repealed.

Approved December 22, 1869.

AN ACT TO BETTER PROTECT HOLDERS OF INSURANCE POLICIES IN No. 196. THIS STATE.

Bonds to

Section 1. Be it enacted by the Senate and House of Representatives be deposited with Composited with Composited by the State of South Carolina, now met and sitting in General Assemtroller Gene-bly, and by the authority of the same, No Company or Association which to the same of the same of the state of State of the St is now organized, or which may be hereafter organized in this State, to carry on the business of insurance of any kind or kinds, shall proceed further with business or to business (as the case may be) until they have deposited with the Comptroller-General of this State bonds or stocks of this State equal to the sum of fifty thousand dollars par value for each Life Insurance Company or Association, and twenty thousand dollars par value for each other Insurance Company or Association. ler-General shall hold such bonds or stocks as security for policy holders General may in said Company or Association; but, so long as any Company or Association of inter-ciation of inter-est thereon. stocks so deposited.

shall furnish SEC. 2. Whenever any company of Association have deposited certificate of fully organized, and the said Company or Association have deposited amount of State bonds or with the Comptroller-General the requisite amount of State bonds or stocks, it shall become his duty to furnish the Corporation or Association with a certificate of such deposit, which certificate, or duplicate thereof, certified by the Comptroller-General, may be used in and be evidence for and against the Corporation in all suits.

SEC. 3. It shall not be lawful for any person or persons, Corporation or Corporations, Association or Associations, to act within this State as

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agent, or otherwise, in receiving or procuring applications for insurance of any kind or kinds, or in any manner to solicit any one to insure, or in any manner to aid in transacting the business of insurance of any kind or kinds for any Company or Association incorporated by, or organized under the laws of this or any other State Government, or any foreign government, until such Company or Association have deposited with the Comptroller-General of this State, for the benefit of the policy holders of such Company or Association, citizens or residents of the United States, bonds or stocks of this State equal to the sum of fifty thousand dollars par value for each Life Insurance Company or Association, and twenty thousand dollars par value for each other Insurance Company or Association; but so long as any Company or Association so depositing shall continue solvent, the Comptroller-General may permit such Company or Association to collect and receive the interest on such bonds or stocks so deposited. and have appointed an Attorney in this State on whom process of law can be appointed. be served; and said Attorney shall have filed with the Comptroller-General a certified copy of the charter of said Company or Association, and also a certified copy of the vote or resolutions of the Trustees or Directors of such Company or Association appointing him the Attorney of such Company, which appointment shall continue until another Attorney be substituted; which shall be done upon the death, removal, or incapacity to act of such Attorney, or may be done by such Company or Association When the foregoing requirements, and such other requireat any time. ments as now are, or may hereafter be required by law, shall have been complied with, the Comptroller-General shall give a certificate to that effect, and cate to be filed also state the name of the Attornoy, which certificate, when filed in the in the County Clerk's Office. County Clerk's Office of the County where the agency is to be located,

shall be the authority to commence business. SEC. 4. Every violation of this Act shall subject the Company or Association, or agent or agents, violating, jointly and severally, to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in a joint or several civil action, in the name of the State of South Carolina, by the Solicitor of the Circuit in which the Company or Association, or agent or agents, so violating, shall be situated; one-half of such penalty, when recovered, shall be paid into the County Treasury of such County, and the other half to the informer of such violation; and, in case of the non-payment of such penalty, the person or persons so offending shall be liable to imprisonment for a period not exceeding one year, in the discretion of the Court having cognizance thereof.

SEC. 5. The Comptroller-General shall safely and separately keep the bonds or stocks of each Company or Association, and shall return the bonds to be returned. identical bonds or stocks received; and, during the usual office hours, shall keep the bonds or stocks subject to examination of the represen- state respontative of any Company or Association having made a deposit, as re-sible therefor. quired by this Act; and the State shall be responsible for the return of all

of said bonds or stocks by the Comptroller-General.

SEC. 6. All Acts and parts of Acts inconsistent or conflicting with this clause. Act are hereby repealed.

SEC. 7. This Act shall take effect sixty days after its passage. Approved December 22, 1869.

A. D. 1869.

Attorney to

His duties.

Comptroller General shall give certifi-

Violation. Penalty.

To whom paid

Imprison-

Identical

A. D. 1869.

No. 197.

Corporators.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That James T. Welsman, John H. Holmes, Samuel Lord, Jr., George L. Holmes, E. W. Macbeth, E. P. Toomer, and their associates and successors, are hereby made and created a body politic and corporate, in deed and in law, by the name of the

To establish Bridge.

"Ashley Bridge Company," for the purpose of establishing a bridge over Ashley River, at such point in St. Andrew's Parish as they shall hereafter determine on, with a capital of ten thousand dollars, to be divided into two hundred shares of fifty dollars each.

SEC. 2. That such company shall have power, from time to time, to increase their capital stock to any amount not exceeding twenty thousand dollars, including their present capital stock: Provided, A majority of the

Subscribers.

Neglect to av install-Day ment.

Sale of shares -how & when to be made.

stockholders present at any general meeting, or the Board of Directors by their authority, shall determine; and such additional stock shall be divided exactly among the stockholders in proportion to their shares in Capital stock. the capital stock of the Company at the time of such increase; but in case any stockholder should not desire to take his or her proportion of such increased stock, the same shall be allotted among the remaining stockholders, or books may be opened for the purpose of obtaining subscribers to such increased stock in such manner as the Company may deem expedient; and in no case shall the members who are unwilling to take their proportion in such increase of stock be assessed to contribute or to make up such increase. Such additional stock shall be subject to all the same provisions, restrictions and conditions as are directed by the provisions of this Act; and any such additional subscribers shall thereby become members of this Company, and subject, in like manner, in proportion to their interests, to all the burthens, liabilities responsibilities and conditions imposed upon the members of this Company. SEC. 3. That if the proprietor of any share shall neglect to pay any

installment assessed thereon for the space of sixty days after the time appointed for the payment thereof, the Treasurer of the Company, by the order of the Directors, may sell, by public auction, a sufficient number of shares standing in the name of such stockholders to pay all the installments then due from him, with all necessary incidental charges. Treasurer shall give notice of the time and place of sales, and of the sum due, by advertising the same three weeks successively before the sale in one of the Charleston newspapers; and a bill of sale of the share or shares so sold, made by the Treasurer, shall transfer said stock to the purchaser, who shall be entitled to a certificate thereof.

SEC. 4. That every shareholder of the said Company shall be individually liable for all debts contracted during the time he or she shall be a shareholder in the said Company to the extent of the par value of his or her shares in the same: Provided, That no person holding stock in the said Company as executor, administrator, gurdian or trustee, and no person holding such stock as collateral security, shall be personally subject to Liabilities of any liability as stockholder of said company; but the person pledging stockholders, such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estate and funds in the hands of such executor, guardian or trustee, shall be liable, in like manner and to the

use#pd-google Carolina on 2024-09-23 19:43 GMT / http://www.hathitrust.org/access same extent, as the testator or intestate, or the ward or person interested in such trust fund, would have been, if he had been living, and competent to act and hold the said stock in his own name: And provided, further, That no stockholder shall be personally liable for the payment of any debt contracted by the said Company which is not to be paid within two years from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against said Company within six years after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in said Company for any debt so contracted, unless the same shall be commenced within six years from the time he shall have ceased to be a stockholder in said Company, nor until an execution against the Company shall have been returned unsatisfied in whole or in part.

SEC. 5. That the said corporation, by their name aforesaid, shall have perpetual succession of officers and members, to be appointed according to the by-laws and regulations which they may establish for the government of the said corporation; and they shall have a common scal, with power to break, alter and make new the same as often as they shall deem

expedient.

SEC. 6. That the said corporation shall be able and capable in law to purchase, have, hold, take, possess, retain and enjoy to itself in perpetuity, or for any term of years, any estate, real or personal, of what kind or nature soever, and to sell, alien and dispose of the same as they may think proper, and by the name aforesaid, to sue and be sued, implead and be impleaded, answer and be answered, in any Court, and to make such and be sued, ac. rules and by-laws, not repugnant or contrary to the laws of the land, as for the good order and proper government of the said corporation may by the same be thought expedient or necessary.

SEC. 7. That the said Company shall be, and they are hereby, authorized and empowered, as aforesaid, to establish a bridge over Ashley River, at such point in the Parish of Saint Andrews, in the County of Charleston, as they shall hereafter fix and determine on, which shall be vested in the said Company, their successors and assigns, in perpetuity, and they shall be authorized and empowered to exact and receive the following toll, viz: For every foot passenger, five cents; for every man and horse or mule, twenty-cents; for every led horse or mule, fifteen cents; for carriage, omnibus or stage coach drawn by four horses, or other draft animals, one dollar and fifty cents; for ditto, by two horses or other draft animals, one dollar; ditto, by one horse or other draft animals, seventy-five cents; for every buggy drawn by two horses or other draft animals, seventy-five cents; ditto, drawn by one draft animal, thirty cents; for every wagon drawn by four draft animals, seventy-five cents; ditto, by three draft animals, fifty cents; ditto, by two draft animals, thirty cents; ditto, by one draft animal, twenty-five cents; for every cart, drawn by two draft animals, thirty cents; for ditto, drawn by one draft animal, fifteen cents; for every sulky or gig, drawn by one animal, thirty cents; for every head of mules, cows, stock, cattle, five cents each; for every head of hogs, sheep, goats, calves, each two cents; for every passenger and vehicle going and returning on the same day, one fare.

SEC. 8. That no bridge or ferry shall hereafter be established on the said river within three miles of the bridge that shall be established by the said Company under and by virtue of this Act: Provided, neverA. D. 1869.

By-Laws.

Scal.

Property.

Power to sue

Rate of toll.

A. D. 1869.

Bridge-its construction.

theless, That the said bridge shall be completed within five years: And provided, also, That the said bridge shall be at least twenty-five feet wide, and there be a draw in the said bridge in the channel of the river, in such place as the same is deepest and most easily navigable, and not less than thirty feet wide, for the passage of vessels through the said bridge, with such anchors and buoys as shall be necessary and convenient to facilitate and secure such passage: Provided, That said corporation shall be subject to any law hereafter made regulating rates of tolls over said bridge.

Appointing

SEC. 9. That James Price, Arthur H. Locke and George L. Holmes, ers to receive or a majority of them, be, and they are hereby, appointed Commissioners Subscriptions to receive subscriptions for the establishment of the Company aforesaid: for which purpose they shall meet at the office of the said James Price, Number Eighty-six, Broad street, in the City of Charleston, on the eleventh day of January next, and there receive the subscriptions of all such persons as shall be desirous of subscribing and associating, for the pur-

pose of becoming members of the corporation aforesaid.

Sec. 10. That this Act shall be deemed and taken to be a public Act, and shall continue in force for the term of twenty years, and until the How bridge arst meeting of the General Assembly thereafter. If at any time one may be con- or more of the adjoining townships or the County, desire said bridge to demned to become one and free to the multibecome open and free to the public, they or either of them may have the same condemned to the public use by the County Commissioners of Charleston County, on payment to the corporation of such sum as shall be awarded by three Special Commissioners impartially chosen for that purpose by the parties, and if they fail to agree, then by the Court of Common Pleas of Charleston County.

Sec. 11. The General Assembly may alter or amend this Act at

to public use.

Court Common Pleas.

> pleasure. Approved, December 22, 1869.

AN ACT TO PREVENT AND PUNISH BRIBERY AND CORRUPTION. No. 198.

ture.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assemoffers, pro-bly, and by the authority of the same, Whoever corruptly gives, offers corrupt na or promises to any executive, legislative or judicial officer, after his election or appointment, either before or after he is qualified, or has taken his seat, any gift or gratuity whatever, with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding which may be then pending, or may be pending, or may by law come or be brought before him in his official capacity, shall be punished by imprisonment in the State Penitentiary at hard labor, not exceeding five years, or by fine not exceeding three thousand dollars, and imprisonment in jail not exceeding one year.

Penalty.

Sec. 2. Every executive, legislative or judicial officer who corruptly accepts a gift or gratuity, or a promise to make a gift or to do an act beneficial to such an officer, under an agreement, or with an understanding that his vote, opinion or judgment shall be given in any particular

Executive and other officers accept-ing gifts, gra-tuities, &c. Sec. 3. Whoever corrupts, or attempts to corrupt, any juror, arbitra-ruptly influtor, umpire or referee, by giving, offering or promising any gift or gratu-encing opinity whatever, with intent to bias the opinion or influence the decision of jurors, such juror, arbitrator, umpire or referee in relation to any cause or matter pending in the Court, or before an inquest, or for the decision of which such arbitrator, umpire or referee has been chosen or appointed, shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding five years, or by fine not exceeding one thousand dollars, and

imprisonment in jail not exceeding one year.

Sec. 4. If any person summoned as a juror, or chosen or appointed as an arbitrator, umpire or referee, corruptly receives any gift or gratuity cepting mowhatever from a party to a suit, cause or proceeding, for the trial or de-new. cision of which such juror has been summoned, or for the hearing or determination of which such arbitrator, umpire or referee has been chosen or appointed, he shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding five years, or by fine not exceeding one thousand dollars, and imprisonment in jail not exceeding one year.

SEC 5. Whoever conveys into a Jail, House of Correction, State Pen-itentiary, House of Reformation or other like place of confinement, any soners to es-cape. disguise, instrument, tool, weapon or other thing adapted or useful to aid a prisoner in making his escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained; or by any means whatever aids or assists such prisoner in his endeavor to escape therefrom, whether such escape is effected or attempted or not; and whoever Resource of priforcibly rescues any prisoner held in custody upon any conviction or charge of offence, shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding seven years; or, if the person whose escape or rescue was effected or intended was charged with an offence not capital, nor punishable by imprisonment, then by imprisonment in the State Penitentiary at hard labor not exceeding two years, or by fine not exceeding five hundred dollars.

Sec. 6. Whoever aids or assists a prisoner in escaping, or attempting to escape, from an officer or person who has the lawful custody of such prisoner, shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding two years, or by fine not exceeding five hun-

dred dollars

SEC. 7. If a jailer or other officer wilfully suffers a prisoner in his cusing prisoner tody, upon conviction or any criminal charge, to escape, he shall suffer to escape penthe like punishment and penalties as the prisoner suffered to escape was alty. sentenced to, or would be liable to suffer upon conviction of the crime or offence wherewith he stood charged.

SEC. 8. If a Sheriff, Constable or other officer authorized to serve lestable, de acgal process, receives from a Defendant or any other person any money or cepting moother valuable thing as a consideration, reward or inducement, for ney, &c.

A. D. 1869.

Penalty.

Penalty.

Jurors, um-

Penalty.

soners.

Penalty.

Sheriff, Con-

A. D. 1869.

Penalty.

Amendment.

STATUTES AT LARGE

omitting or delaying to arrest a Defendant, or to carry him before a Magistrate, or for delaying to take a person to prison, or for postponing the sale of property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be punished by fine not exceeding three hundred dollars.

Approved December 22, 1869.

No. 199. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AUTHORIZE THE GOVERNOR TO APPOINT A PHYSICIAN TO ATTEND ON THE JAIL IN CHARLESTON, AND THE MAGAZINE GUARD IN ST. PHILLIP'S PARISH, AND FOR OTHER PURPOSES THEREIN MENTIONED."

> SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section 2 of the above Act be amended by striking out the words "five hundred," on the third line,

and inserting the words "one thousand" in lieu thereof. Repealing

Sec. 2. That all Acts or parts of Acts, inconsistent with this Act be, and the same are hereby, repealed.

Approved December 22, 1869.

AN ACT TO MAKE APPROPRIATION FOR THE PAYMENT OF THE PER DIEM No. 200. AND MILEAGE OF THE MEMBERS OF THE GENERAL ASSEMBLY AND THE SALARIES OF THE SUBORDINATE OFFICERS, AND OTHER EXPENSES INCIDENTAL THERETO.

> Section. 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That for the payment of the per diem and mileage of the members of the General Assembly, and the salaries of the subordinate officers, and other expenses incidental thereto, the sum of one hundred and twenty-five thousand dollars, if such be necessary, be, and the same is hereby, appropriated out of any funds in the Treasury, not otherwise appropriated.

Appropria-ting \$125,000.

Clerks of both Houses to fur-nish certifibers.

SEC. 2. That the Clerks of the Senate and House of Representatives be, and they are hereby, authorized and directed to furnish to each memcates to mem- ber of their respective bodies, a pay certificate for the amount of his mileage and per diem, to include such dates as the General Assembly shall, by concurrent resolution, direct.

Certificates be signed.

Sec. 3. That such certificates shall conform to the provisions of Section 23, Article II, of the Constitution of the State, and shall be certified by the President of the Senate, and attested by the Clerk of the Senate, for all members of that body, and by the Speaker of the House of Representatives, and by the Clerk of the same, for all members of that body.

Subordinates. SEC. 4. That the subordinate officers and employees of this General Assembly shall, in like manner, be furnished with certificates of pay in such amounts as shall be fixed by that branch of the General Assembly

to which such officers and employees shall respectively belong: Provided, however, That the pay certificates for services common to the two Houses, shall be signed by the President of the Senate, and countersigned by the Mon to both Houses. Speaker of the House of Representatives.

SEC. 5. That the Treasurer of this State is hereby authorized and di-

Treasurer rected to pay said certificates out of any funds in the Treasury not other-

wise disposed of, and to hold the certificates as his youchers therefor. Approved December 22, 1869.

AN ACT TO SUPPLEMENT THE ACT ENTITLED "AN ACT TO INCORPO-RATE THE SOUTH CAROLINA IMPROVEMENT AND TRUST COMPANY," APPROVED MARCH 23D, 1869.

No. 201.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the corporate name of the South Carolina Improvement and Trust Company shall be changed to the South Carolina Bank and Trust Company; and said corporation shall also have all the powers and privileges conferred by the Act entitled "An Act to incorporate the Citizens' Savings Bank of South Carolina," approved February 13th, A. D. 1869; and said corporation shall have the right to purchase, lease, hold, use, sell, or mortgage, or loan upon any property, real or per- pose of prosonal, or corporate, in this or any other State, subject to the provisions perty. of its original charter.

Power to dis-

SEC. 2. That a meeting of the stockholders shall be held within thirty organization. days from the passage of this Act, for the purpose of re-organization, and election of officers to serve until the next annual meeting.

Mode of re-

Approved December 22, 1869.

AN ACT TO RENEW THE CHARTER OF THE COLUMBIA HEBREW BE- No. 202. NEVOLENT SOCIETY.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the charter of the Columbia Hebrew Benevolent Society, of Columbia, be, and the same is hereby, renewed and extended for the term of twenty-one years from the ratification of this Act; and that all acts done by the said Society since the expiration of its charter, in conformity thereto, shall be, and the same are hereby, declared to be as good and valid, to all intents and purposes, as if the same had been done bevalid. fore the expiration of its charter.

Charter ex-

Former ac-

Approved December 22, 1869.

AN ACT CONSENTING TO THE SALE OF CERTAIN LANDS TO THE UNI-No. 203. TED STATES, AND CEDING JURISDICTION THEREOF.

Whereas, the Congress of the United States of America, at the third session of the Fortieth Congress, passed an Act entitled "An Act making 40

Preamble.



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A. D. 1869.

Proviso.

appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy, and for other purposes," which Act was approved on the third day of March, in the year of our Lord one thousand eight hundred and sixty-nine; and the said

Act, among other things, provided as follows:

For purchase of building known as "The Club House," at Charleston, South Carolina, and the fitting up thereof for the use of the United States Courts, forty-six thousand dollars, or so much thereof as may be required, and the Secretary of the Interior is hereby authorized to make such purchase, and fit up said building for the said purpose: Provided, That the same can be done at an expense not larger than said fortysix thousand dollars.

And whereas, by a joint resolution of the Congress of the United States, approved September the eleventh, one thousand eight hundred and forty-one, entitled "Joint Resolution making it the duty of the Attorney-General to examine into the titles of lands and sites for the purpose of erecting thereon armories and other public works and buildings, and for other purposes," it was resolved, among other things, that no public money should be expended upon any site or land thereafter to be purchased by the United States, for the purposes aforesaid, until the written opinion of the Attorney-General shall be had in favor of the validity of the title, and also the consent of the Legislature of the State in which the land or site may be should be given to said purchase; there-

Section 1. Be it enacted by the Senate and House of Representatives

Consenting to sale of cer-United States.

Description of land.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the consent of the General Assembly of the said State be, and is hereby, given to the United States of America to purchase, in fee simple, from the owner or owners thereof, for a court house and offices connected therewith, for the use of the United States Courts, or for any other purposes to which the Government of the United States may think proper to apply it, and to exercise authority and jurisdiction over all that lot, piece or parcel of land, with the buildings thereon, known as "The Charleston Club House," situate, lying and being on the west side of Meeting Street, in said city, measuring and containing in front, on Meeting Street, fifty-eight feet, more or less, by about two hundred and thirty-six feet in depth, more or less; bounding north on lands now or late of Wm. P. Greenland; to the east on Meeting Street; to the south on lands of M. C. Mordecai; and to the west on lands of the French Protestant Church: Provided, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall and may be served and executed on any part of the said premises, and on any person or persons there being and implicated in any matter of law: And provided, always, That the said lot of land, and all the buildings and structures of every kind already thereon Exemption erected, or that may hereafter be erected thereon, shall be absolutely and forever exempt from all taxes of the County of Charleston, and the corporation of the city of Charleston, and of the aforesaid State: Provided, further, That all taxes heretofore laid or levied upon the said land shall be a lien thereon till paid.

Approved December 23, 1869.

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AN ACT TO AUTHORIZE ADMINISTRATORS, EXECUTORS, AND OTHER FIDUCIARIES, TO SELL CERTAIN EVIDENCES OF INDEBTEDNESS AT PUBLIC SALE, AND TO COMPROMISE IN CERTAIN CASES.

A. D. 1870. No. 204.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all Administrators, Executors, and other fiduciaries, shall be allowed to sell, to the highest bidder, as other personal property is now sold, all notes, accounts, and other evidences of indebtedness coming into their hands as such, when the same is appraised doubtful or worthless, and the purchaser thereof shall be allowed to bring his action in his own name, as purchaser, to collect the

SEC. 2. That all Administrators, Executors, and other fiduciaries, may, by and with the consent of the Probate Judge, compromise all demands coming into their hands as such, where the same is appraised doubtful or demands with worthless; and, where such compromises are made, the same shall be fully the Probate shown in their annual returns. shown in their annual returns.

Administra-tors, &c., to compromise

Approved January 14, 1870.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO ORGANIZE TOWN-No. 205. SHIPS AND TO DEFINE THEIR POWERS AND PRIVILEGES."

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to organize Townships and to define their powers and privileges," be, and the same is hereby, repealed, except that portion of the same fixing the number, names and boundaries of the respective townships of the respective Counties.

Approved January 19, 1870.

AN ACT TO PROTECT THE RIGHTS OF PERSONS LAWFULLY IN POSSES-No. 206. SION OF LANDS AND TENEMENTS.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That after final judgment in an action to recover lands and tenements, in favor of the Plaintiff, if the Defendant has purchased the lands and tenements recovered in such action, or taken a lease thereof, or those under whom he holds has purchased a title to such lands and tenements, or taken a lease thereof, supposing at the time of such purchase such title to be good in fee, or such lease to convey and to tenant full secure the title and interest therein expressed, such Defendant shall be provements entitled to recover of the Plaintiff in such action the full value of all in the full value of al entitled to recover of the Plaintiff in such action the full value of all im- made in cerprovements made upon such land by such Defendant, or those under whom he claims, in the manner hereinafter provided.

SEC. 2. The sum which such land shall be found, at the time of the

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STATUTES AT LARGE

A. D. 1870.

rendition of such judgment, to be worth more, in consequence of improvements so made, than it would have been had no such improvements or What to be deemed value betterments been made, shall be deemed to be the value of such improveof improve-ments or betterments.

Complainthow and when nied.

SEC. 3. The Defendant in such action shall, within forty-eight hours after such judgment, or during the term of the Court in which the same shall be rendered, file a complaint against such Plaintiff for so much money as the lands and tonements are so made better, in the office of the Clerk of such Court, which shall be sufficient notice to the Defendant in such complaint to appear and defend against the same, and all subsequent proceedings shall be had in accordance with the practice prescribed in the Code of Procedure.

proceedings.

SEC. 4. The Court, on the entry of such action, shall stay all proceed-Court to stay ings upon the judgment obtained in the prior action, until a final judgment shall be rendered in this action; and the lands and tenements so recovered shall be held to respond to any judgment which shall be rendered on such complaint, in the same manner and for the same time as if the same had been attached on mesne process.

> SEC. 5. Execution on the judgment rendered in such action shall issue only against the land and tenements recovered, as in Section 1, and shall not, in any case, issue against the goods and chattels or other lands of the

Defendant.

No recovery for mesne pro-

SEC. 6. The Plaintiff, in an action for the recovery of lands and tenements, shall recover nothing for the mesne profits of the land, except on such improvements as were made by him or those under whom he claims.

made with the legal owner of such land, unless it shall appear, on the trial of the action of the case, that such owner has neglected to fulfill such contract on his part, in which case such person in possession shall be entitled to all the privileges hereinbefore provided for those who entered upon land under supposed title, and the same proceedings shall be had, and the land shall be held in the same manner as is hereinbefore provided.

Approved January 19, 1870.

AN ACT TO INCORPORATE THE POLICY HOLDERS' LIFE AND TONTINE No. 207. ASSURANCE COMPANY OF THE SOUTH.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same: That Wm. C. Bee, Robt. Mure, Corporators. Henry Cobia, Andrew Simonds, John R. Dukes, Geo. W. Williams, Jas. R. Pringle, W. K. Ryan, L. D. Mowry, Henry Bischoff, William G. Whilden, A.S. Johnson, George H. Moffett, James Conner, Wm. Mc-Burney, Geo. E. Boggs, John S. Preston, James Woodrow, E. P. Alexander, Edwin J. Scott, John B. Palmer, R. O'Neale, Jr., Wm. M. Shannon, Henry McIver, D. Wyatt Aiken, Giles J. Patterson, James P. Boyce, J. Leighton Wilson, Robert L. McCaughrin, E. Nye Hutchison,

J. Harvey Wilson, Murdock McRea, Z. B. Vance, and all other persons who may associate with them, shall be a body politic and corporate, by the name of the Policy Holders' Life and Tontine Assurance Company of the South, and by that name shall have succession of officers and members, may sue and be sued, plead and be impleaded, in any court whatever, and may exercise all such corporate powers and franchises as are hereinafter provided.

A. D. 1870.

SEC. 2. The business of the Company shall be to make insurance upon Business—how conductthe lives of individuals, and every insurance appertaining thereto, or ed. connected therewith, and to grant, purchase or dispose of annuities. The insurance business of the Company shall be conducted on the mutual The premiums on all policies issued by the Company shall be paid in cash. For any omission to pay any premium due to the Company after payment of one or more annual premium or premiums, or for any other violation of the conditions of any policy, after said payment, (save and except those against fraud or attempted fraud, hereinafter provided for,) the party insured may be required to surrender his or her policy to the Company to be cancelled, and in lieu therof shall be entitled to receive in cash, or its equivalent in insurance, the surrender value thereof, at the time the premium becomes due and is not paid, or at the time when, for any other cause, the policy may be required to be surrendered as aforesaid. In lieu of cash, the trustees may, at their own option, issue premiums. a temporary policy of insurance for such a term as the said surrender value, considered as a net single premium, may purchase, and the said term shall be determined according to the age of the party at the time of the lapse of the premium, or at the time when, for other cause, the policy may be required to be surrendered, and the assumption of mortality and rate of interest upon which premium or premiums paid were based. any violation of the conditions of a policy designed to protect the Company against fraud or attempted fraud, the Trustees may forfeit the policy, and may apply all the previous payments to the use and benefit of the Company. The principal office for the transaction of the business of nee. the Company shall be in the City of Charleston, South Carolina, or at

Premiums.

Omission to

Surrender of

Principal of-

Board of

by the Trustees in any other place. SEC. 3. The corporate powers and franchises of the Company hereby Trustees, &c. created shall be vested in a Board of Trustees, and shall be exercised by them, and by such officers and agents as they may appoint, and from time to time empower. The Board of Trustees shall consist of not less than thirty-six persons, a majority of whom shall be residents of the State of South Carolina, and one-half, and more than one-half of those residing in the State, shall be residents of the City of Charleston, and no one shall be a Trustee who is not a policy holder in the Company.

Branches of the Company, and agencies thereof, may be established

The Board of Trustees may, previous to any annual election of Trustees, and after giving notice at a previous meeting of the Board, provide for diminishing the number of Trustees to not less than twenty-four, in Trustees may which case one-fourth of the whole number, as thus diminished, shall be elected annually, in the same manner as is hereinafter provided in regard to the thirty-six Trustees above provided for; and the same powers and franchises shall vest in said Board, thus diminished, as were pre-

Number of be diminished

viously vested in the Board of thirty-six Trustees.

such other place as the Trustees may select.

Trustees how and when to serve.

The persons named in the first Section of this Act, together with such other persons as they may select, shall constitute the first Board of Trus-They shall divide themselves, by lot, into four classes of one-fourth of the whole number each. The term of the first class shall expire at the end of one year from the first Tuesday in March, 1871; that of the second class shall expire at the end of two years from that time; that of the third class shall expire at the end of three years from that time; that of the fourth class at the end of four years from that time; so that in each consecutive year after that date, the term of one-fourth of the whole number of the Board of Trustees shall expire.

Trustees.

An election shall be held, annually, on the first Tuesday in March in Election of each year, to fill the seats of each class made vacant as aforesaid; and the persons elected to fill the same shall hold office for four years, or until their successors shall have been chosen; but any Trustee whose term shall have expired shall be eligible for re-election. All elections for Trustees shall be by ballot, and a plurality of votes shall elect.

> In the event of a failure to elect Trustees on the day appointed for that purpose, the remaining Trustees whose terms of office shall not have expired shall have power to fill the said vacancies, and also to fill all vacancies that may occur by death, resignation, or removal from the State; fourteen days' previous notice of each annual election shall be given in two or more of the newspapers published in the State of South Carolina, in one or more published in North Carolina, and in one or more published in Georgia.

Managers of election.

holders.

Quorum.

By-Laws.

Seal.

Rates of premium.

Three life policy holders in the Company shall be appointed, by the Trustees, Managers to hold and declare said election; and at any election vote of stock. for Trustees each policy holder shall be entitled to one vote for his or her own policy, and one vote for each policy he or she may hold on the life

or lives of others, which may be cast personally or by proxy.

The Trustees shall have power and authority to declare by by-laws what number of Trustees, not less than seven, shall constitute a quorum for the transaction of business. They shall also have power and authority to make all by-laws, rules and regulations, not repugnant to the Constitution and laws of the State, for the government of the officers and agents of the Company, and for the management of its affairs, and the same to alter and amend, or repeal at pleasure. They may delegate power to a Committee, or Committees, of their own number, to transact any of the business of the Company, except the signing and issuing of policies of insurance or annuity, and the payment of losses, which shall be done only by the President and Secretary, or, in their absence, by such person or persons as may be appointed for that purpose by the Board of They may adopt and keep a common seal for the use of the Company, and the same may alter at will. They may determine the rates of premium to be charged, and the amounts to be insured on any one life, and the terms of such insurance, and shall have power to purchase, for the benefit of the Company, any policy or policies of insurance, dividends or other obligations of the Company; but no officer, trustee or agent of the Company shall be personally, directly or indirectly, interested in any such purchase. The Board of Trustees shall, immediately President and after the organization of the Company, and afterwards, at the first meet-Vice-Presid't, and other offil ing of the Board after each annual election for Trustees, elect from their own number a President, and may elect, also, Vice-Presidents, who shall,

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respectively, hold office for the term of one year, and until their successors shall be elected. The Trustees shall have power to elect or appoint a Secretary and such other officers, agents and employees, as they shall deem requisite and necessary for properly conducting the business of the Company, who shall hold office during the pleasure of the Board. They may appoint a President and Vice-President, pro tempore, as occasion may require.

The President may call special meetings of the Board of Trustees whenever requested in writing so to do by seven members of the Board. The officers of the Company shall, within sixty days from the expiration of the period of one year from the day of the Company's organization under this charter, and within sixty days after the expiration of every subsequent period of one year, cause a balance to be struck of the affairs affairs to be of the Company, which shall exhibit its assets and liabilities, both pres- slive annuent and contingent, and also the net surplus, after deducting a sufficient Each policy Surplus—how said surplus disposed of amount to cover all outstanding risks and obligations. holder shall be credited with an equitable share of the said surplus. Such equitable share shall, at the option of the policy holder, be paid in cash, or be applied to the purchase of an additional amount of insurance, payable at death or with the policy itself, expressing the reversionary value of such equitable share, at such rate of interest as the Trustees may designate, or shall be applied to the purchase of an annuity, at such rate of interest as the Trustees shall designate, to be applied to the reduction of his or her future premiums. In event of death, the amount standing to the credit of the party insured at the last preceding yearly of deceased balance, as aforesaid, shall be paid over to the person entitled to receive the same, and the portion of surplus, equitably belonging to him or her at the next subsequent yearly balance, shall also be paid, when the same shall have been ascertained and declared; but nothing herein contained shall prevent the Trustees from causing to be ascertained and paid with the policy such (if any) equitable share belonging thereto.

The officers of the Company shall, at the yearly periods aforesaid, cause a general balance statement of the affairs of the Company to be made, which shall be open to the inspection of the policy holders for

sixty days, during the usual hours of business.

The said statement shall show the amounts received during the preceding five years for premiums, interest and annuities, and also the amounts paid during the same time for losses, expenses, &c., and the balance remaining in the Treasury, together with the manner in which the surplus is invested.

SEC. 4. The fiscal year of the Company shall terminate on the thirtyfirst day of December in each year, and it shall be the duty of the President, or Vice-President, and Secretary or Actuary, or a Committee of the Trustees of the Company, within sixty days thereafter, to prepare and file in the office of the Comptroller-General of the State of South of Habilties Carolina a statement, made under oath, showing the assets and lia- with Comptioner troller Generation and the company in accordance with and a statement, made under oath, showing the assets and lia- with Company in accordance with and a statement, made under oath, showing the assets and lia- with Company in accordance with a statement, made under oath, showing the assets and lia- with Company in accordance with a statement of the company in a statement, made under oath, showing the assets and lia- with Company in a statement of the company bilities of the Company, in accordance with, and as required by, the Act al. of Assembly entitled "An Act to regulate the agencies of Insurance Companies not incorporated in the State of South Carolina," approved March 6, 1869; said statement shall be examined and compared with the books of the Company by three or more policy holders, and its correctness certified to by them, to the best of their knowledge and belief.

A. D. 1870.

Balance of

Accounts deceased

Sec. 5. The Trustees may invest the funds of the Company, or accumulations of money, in bonds secured by mortgage on unincumbered real estate, worth, exclusive of the exemptions from levy and sale contained in an Act entitled "An Act to determine and perpetuate the homestead," approved September 9th, 1868, one hundred per centum more than the amount agreed to be loaned thereon, or in stocks and bonds of How funds the United States, or of this State, or of other States of the United States, or of cities incorporated therein, or in first mortgage bonds of Railroad Companies, when such bonds are worth in open market not less than eighty cents on the dollar, and yielding and paying an interest on the par value thereof of not less than five per centum per annum: Provided, That the investment in the bonds or stocks of this State shall not be less than fifty thousand dollars. They may loan money on the hypothecation of such stocks and bonds as the aforesaid, on such terms and conditions as they may from time to time determine, and may change all

may be inves-

When Company may hold and convey real estate.

Sec. 6. It shall not be lawful for the Company to purchase, hold or convey real estate, except for the purposes and in the manner following, to wit:

the aforesaid investments, and reinvest as often as they may think

1st. Such as may be required for its immediate accommodation in the transaction of its business.

2d. Such as may have been mortgaged to it in good faith, by way of security for loans previously contracted, or for money due.

3d. Such as may have been conveyed to it in satisfaction of debts pre-

viously contracted.

proper.

4th. Such as may have been purchased at sales upon judgments, decrees of foreclosure of mortgages obtained and made for such debts, and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of the Company in the convenient transaction of its business, shall be sold and disposed of within five (5) years after the Company shall have acquired title thereto, unless the Company shall procure a certificate from the Comptroller-General that the interests of the Company will suffer materially by a forced sale thereof, in which event the time for the sale may be extended to such time as the said Comptroller shall direct.

Liabilities of officers and membera.

Sec. 7. All policy holders shall be members of the Company; but no member, except officers and agents thereof, shall be personally liable for any loss or losses of the Company, and such officers and agents severally shall only be liable for the loss or losses arising by reason of their own respective neglect or misconduct.

Suits at law members pany.

SEC. 8. Suits at law may be maintained by the Company against any against Com- of its members for any cause relating to the business of the Company, also suits at law may be prosecuted and maintained by any member against the Company for loss or losses by death or on the maturity of a term policy if payment is withheld more than two months after the proof of loss or losses, or claim, has been submitted to the Company.

In what cases and how insurances to be made.

Sec. 9. This Company shall have authority to insure for any married woman by herself, and in her own name, or in the name of any third party with his assent, as her Trustee, for her sole use and benefit, her own life, or the life of her husband, or the life or lives of her child or children, for any definite period, or for the full term of her, his or their

natural life or lives; and in the event of the policy or policies on her, his or their life or lives, being for a definite period or term of years, the sum or sums, or net amount or amounts of the insurance becoming due and payable by the terms of the policy or policies, shall be payable to her or her Trustee, to and for her own use, free from the control or use of her husband or any of his creditors; and in the event of the insurance being for the term of her, his or their natural life or lives, and of her surviving husband or child, or children, the sum or sums payable by the terms of the policy or policies, shall be payable to her or to her Trustee, to and for her sole use and benefit, free from the claims of the legal representatives of her husband or of any of his creditors.

The amount of insurance provided for in this Section, as aforesaid, may be made payable, in the event of the death of the wife before the when and to definite period at which the term-of-years policy on her life would become bie. due if she had lived, and before the period at which the insurance on her husband's life, or on her child or children's life or lives, becomes due, to her husband, or to her or her child or children, (if of age,) for the use of said child or children, as shall be provided for in the policy or policies of insurance, or to the guardian of the said child or children, if under age.

SEC. 10. No policy of insurance shall be issued by this Company until application shall have been made for insurance amounting in the aggre-

gate to one million of dollars.

Within sixty days after the organization of the Company, the Company shall deposit with the Comptroller-General, (there to remain open to inspection at all times) fifty thousand dollars of the stocks and bonds of Company to this State, as a security for the policy holders against loss, said Company of state bonds to collect the interest on said bonds, so long as it remains solvent: Provitroller General Acceptance That no policy shall be issued by this Company until the solvents. ded, however, That no policy shall be issued by this Company until the al. provisions of this Section shall have been complied with.

SEC. 11. This charter shall be subject to any such revision and change

of its terms as may hereafter be adopted by the General Assembly.

Approved January 19, 1870.

A. D. 1870.

Insurance-

Amount of

AN ACT TO INCORPORATE THE SISTERS OF OUR LADY OF MERCY OF No. 208. South Carolina.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Sisters of Our Lady of Mercy be, and they are hereby, created a body politic and corporate, under the name and style of the Sisters of Our Lady of Mercy of South Carolina, with power to own and hold real and personal estate not exceeding the Capital stock. value of one hundred thousand dollars, and with all the powers and privileges incident to bodies corporate and politic.

Sec. 2. This Act of Incorporation to remain in force for twenty years.

Approved January 21, 1870.

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AN ACT TO ESTABLISH A COMPANY UNDER THE NAME OF THE MOUNT PLEASANT AND SULLIVAN'S ISLAND FERRY COMPANY.

Corporation.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Corporators. and by the authority of the same, That upon compliance with the second Section of this Act, Henry L. P. McCormick, and such other persons as may become members thereof, be, and they are hereby, declared a body politic and corporate, by the name of the Mount Pleasant and Sullivan's Island Ferry Company, for the purpose of keeping up a ferry and con-Purpose of veying passengers and transferring goods, wares and merchandise by steamboats between the City of Charleston and the Town of Mount Pleasant and Sullivan's Island, and of conveying passengers, goods, wares and merchandise between the said city and any other place or places.

Schedule of property filed in offices of Register

Capital stock, by whom own-ed, &c.

Sec. 2. That the said Henry L. P. McCormick, in order to entitle himself to the benefits of this incorporation, shall make out a fair schedule of all the property, and value thereof, now owned and used by him as proprietor of the Mount Pleasant and Sullivan's Island Ferries, from the City of Charleston, accurately describing the same, and shall record the same in the office of the Register of Mesne Conveyance, for Charleston of Mesne Con- County, and in the office of the Secretary of State, on or before the first veyance and day of April next; and from the day when the said schedule shall be recorded in the said offices, the said property, real and personal, so described, shall be vested in the said Mount Pleasant and Sullivan's Island Ferry Company, and the said Henry L. P. McCormick shall be and become the sole owner of the capital stock of the said Company, which said capital stock shall be equal to the full clear value of the property as stated in the said schedule, and shall be divided into shares of one hundred dollars each, each of which shares shall be estimated at one hundred dollars par value, as to all liabilities to which the members of the said Company may become individually answerable by the provisions of the third Section of this Act: And, provided, That the amount of said capital stock may be increased by the addition of property to the said schedule at any time to an amount not exceeding eighty thousand dollars. Sec. 3. Every shareholder of the said Company shall be individually

Liabilities of

liable for all debts contracted during the time he or she shall be a shareshareholders, holder in the said Company to the extent of the par value of his or her shares in the same.

Vote of shareholders.

SEC. 4. That in all elections, and in all meetings of the corporation, each shareholder shall be entitled to as many votes as he or she shall hold shares, one vote for every share, and shareholders absent from any meeting or election shall be entitled to vote by proxy.

Officerstheir powers.

Sec. 5. That the said Company shall have such number of officers as shall be ordained and chosen by the rules and by-laws to be made for their government and direction, and shall have power and authority to make all rules and by-laws not repugnant to the laws of the land; to regulate the issue of script and transfer of shares; to have and keep a common seal, and the same to alter at will; to sue and be sued, plead and be impleaded, in any Court of Law and Equity; to purchase, take and hold, sell and alien, in fee simple or for any less estate, lands, tenements, hereditaments, goods, chattels, rights and credits which may be connected

Property.

with, or in any manner conducive to, the purpose for which said Company is established.

A. D. 1870.

SEC. 6. This Act shall be deemed and taken to be a public Act, and shall continue in force for the term of twenty-one years.

Approved January 24, 1870.

AN ACT TO INCORPORATE THE DEUTSCHER ARTILLERIE UNTERSTUT-ZUNGS VEREIN.

No. 210.

Corporators.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That H. Hames, H. Klatte, F. C. Windheim, J. J. W. Luden, and their associates and successors, are hereby made and created a body politic and corporate, under the name

and style of the "Deutscher Artillerie Unterstutzungs Verein."

Powers, pri-

SEC. 2. That the said corporation hereby created and established shall have succession of officers and members according to its by-laws, and vileges, &c. shall have power to make by-laws, not repugnant to the laws of the land, and to have, use and keep a common seal, and the same to alter at will; to sue and be sued in any Court in this State, and to have and enjoy every right, power and privilege incident to such corporation; and it is hereby empowered to take, hold, retain, possess and enjoy all such property, real and personal, as may be given, bequeathed or devised to it, or may be in any manner whatsoever acquired by the said corporation: Provided, The

Property. Proviso.

amount so held shall not exceed the sum of twenty thousand dollars.

How and en funds when may be inves-ted.

SEC. 3. That the said corporation may, from time to time, invest their funds, moneys, assets and all other property which it may acquire, in such real or personal property, stocks, public or private, notes, bills, bonds, with or without security by mortgage of real or personal property, or by surety, in such sums and on such terms and conditions as they may deem And it shall and may be lawful for the said corporation, from time to time, and at all times, to sell, convey, mortgage, assign or transfer any or all of its property, real and personal, as and when it may be deemed proper and expedient, and to make and execute bonds, under the corporate seal, with or without mortgage, for the purchase of real or personal property.

SEC. 4. That this Act shall continue in force for the space of fourteen years; and that the same shall be taken and deemed a public Act, and may be given in evidence without being specially pleaded.

Approved January 27, 1870.

AN ACT TO RECHARTER BLYTHE'S GAP TURNPIKE ROAD.

No. 211.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Blythe's Gap Turnpike Road, located and being situate in Greenville County, be, and the same is hereby, rechartered for the term of fourteen years, and the same vested in James E. Hagood, for the benefit of the heirs of Benjamin Hagood, good.

Vested in James E. Ha-

deceased, with the same privileges and rates of toll as those heretofore established by law.

Approved January 27, 1870.

No. 212. AN ACT TO INCORPORATE THE VIGILANT FIRE ENGINE COMPANY, OF COLUMBIA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the "Vigilant Fire Engine Company, of Columbia," and the several persons who now are, or hereafter may be, officers and members thereof, and their successors, officers and members, be, and they are hereby, declared to be a body politic and corporate, by the name and style of the "Vigilant Fire Engine Company, of Columbia," and that the said corporation may, by its corporate name, sue and be sued, plead and be impleaded, in the Courts of this State, and Power and shall be able and empowered in law, to purchase, have, hold, enjoy and possess any goods, chattels, lands, tenements, or real estate, of whatever

franchises.

Proviso.

kind or nature soever, and the same or any part thereof to sell, alien or convey, at their will or pleasure: Provided, however, That the property so to be held shall not exceed the annual value of five thousand dollars, and the said corporation shall have power to make a common seal, with power to change and alter the same as often as they may deem necessary.

SEC. 2. That this Act shall be deemed and taken to be a public Act, and shall continue in force for the term of fourteen years, and until the next meeting of the General Assembly thereafter, and no longer.

Approved January 27, 1870.

AN ACT TO AUTHORIZE A LEASE OF CERTAIN LAND ON EDISTO IS-No. 213. IAND, AND THE ERECTION OF A WHARF AND OTHER STRUCTURES THEREON.

Secretary of State to exe-cute lease.

Governor to approve.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Secretary of State is hereby authorized to execute a lease for and on behalf of the State, on such terms as the Governor may approve, to John Wright, of Edisto Island, his heirs, executors, administrators and assigns, of all that tract of land on Edisto Island, containing one acre, more or less, purchased by the State from J. Evans Edings, and now known as "Steamboat Landing," for the purpose of erecting thereon a wharf and storehouses for the accommodation of the public, binding the lessee to erect thereon, within a reasonable time, suitable and substantial structures for the use of the public, and to such other requirements as may be deemed necessary to

Conditions.

secure the interests of the public and the State. SEC. 2. That upon the execution of the lease above authorized, and the erection of a wharf and storehouses thereon, the said John Wright,

Authority to collect usual wharfage, &c.

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his heirs, executors, administrators and assigns, are authorized to collect the usual rates of wharfage and storage on all goods, merchandise or commodities that may be landed or stored upon the said premises. Approved January 27, 1870.

A. D. 1870.

AN ACT TO INCORPORATE THE WINNSBORO HOOK AND LADDER COM-PANY, OF THE TOWN OF WINNSBORO.

No. 214.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That S. B. Clowney, P. Bacot, A. W. Ladd, W. M. Dwight, J. A. Brice, H. N. O'Bear, John O'Neil, G. D. McCantz, and their successors in office, be, and they are hereby, constituted a body corporate and politic, under the name and style of the "Winnsboro Hook and Ladder Company," with a capital stock not Capital stock. exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure, and with all the rights, privileges and immunities that are secured by law to like incorporated bodies.

Corporators.

Powers and

SEC. 2. This Act shall be deemed a public Act, and shall remain in force for a term of ten years.

Approved January 27, 1870.

AN ACT TO INCORPORATE THE AFRICAN METHODIST EPISCOPAL No. 215. CHURCH, IN THIS STATE.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the African Methodist Epis- corporation. copal Church in this State is hereby incorporated, with all the rights and privileges awarded to religious denominations within this State.

Purpose of Powers and

franchises.

SEC. 2. That the said African Methodist Episcopal Church shall exercise and enforce its discipline, in accordance with the regulations of the same, within any branches of the said Church within this State established, and shall be protected in law in the same; and that all property acquired by the said Church shall be held by them according to the form of deeds designated by their discipline and mode of government.

SEC. 3. That the said Church may acquire lands within this State for Capital stock, religious and educational purposes, and regulate and govern the same as they may deem proper, in accordance with their law and discipline, such laws not being inconsistent with the laws of this State.

Approved January 27, 1870.

A. D. 1870. No. 216. AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT CONCERN-ING THE OFFICE, DUTIES AND LIABILITIES OF CORONER."

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and the authority of the same, That Section 3 of an Act entitled "An Act concerning the office, duties and liabilities of Coroner," be, and the same is hereby, amended so as to read as follows: Whenever any vacancy shall occur in the said office by death, resignation or otherwise, the Governor shall, by proclamation, designate some Justice of the Peace or Magistrate of the County wherein the vacancy occurs, to act as Cononer until, by order of the Legislature, an election shall be had to fill the vacancy.

Governor to fill vacancies occurring by death, &c.

SEC. 2. That Section 11 of same Act be also amended, by striking out the words "free and white," on the first line.

Approved January 27, 1870.

AN ACT TO DESIGNATE THE OFFICERS BY WHOM SALES ORDERED BY No. 217. THE COURTS OF COMMON PLEAS AND JUDGES THEREOF AND THE COURTS OF PROBATE SHALL BE MADE.

make certain sales.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all sales of personal or real estate, or Sheriff to other interest, hereafter ordered to be made by the Courts of Common Pleas or Courts of Probate, shall be made by the Sheriff of the County in which said real or personal estate or other interest is at the time said sale is ordered.

Fees of Sheriffs.

SEC. 2. That in all sales by said Sheriff, under the order of Courts of Common Pleas, exercising common law jurisdiction, or under the order of the Courts of Probate, the fees of said Sheriff shall be the same as now fixed by law for sales by Sheriffs under executions issuing from the Courts of Common Pleas exercising common law jurisdiction; and that in all sales under the order of Courts of Common Pleas, exercising equity jurisdiction, the fees of said Sheriff shall be the same as those now fixed by law for sales by Sheriffs under executions issuing from the Courts of Common Pleas exercising common law jurisdiction.

Approved January 27, 1870.

AN ACT TO INCORPORATE THE WATEREE FIRE ENGINE COMPANY, No. 218. No. 2, of Camden, South Carolina.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Corporators, and by the authority of the same, That David Jenkins, Mars Ervings,

James Reid, James Cook, Jacob Carter, Charles Campbell, and their as-Powers, pri- sociates and successors in office, be, and they are hereby, created and constituted a body politic and corporate, by and under the name and

Corporators.

Privileges,

style of the Wateree Fire Engine Company, No. 2, with a capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure, and to have and enjoy all other rights, privileges and immunities that are now or hereafter may be secured by law to like incorporated bodies.

SEC. 2. That this Act shall be deemed a public Act, and shall continue in force for a term of fourteen years.

Approved January 27, 1870.

AN ACT TO INCORPORATE THE PROMPTITUDE FIRE ENGINE COMPANY, OF CHARLESTON.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Paris Attles, F. Rames, L. Zeller, F. White, and their successors in office, be, and they are hereby, constituted a body corporate and politic, under the name and style of the "Promptitude Fire Engine Company," with a capital stock not exceed- Capital stock. ing the sum of ten thousand dollars, with the right to sue and be sued, to plead and be impleaded, in any Court of competent jurisdiction; to have and to use a common seal, and the same to alter at will and pleasure, and with all other rights, privileges and immunities that are now &c. secured by law to like incorporated bodies.

SEC. 2. That this Act shall be deemed a public Act, and shall remain

in force for the term of fourteen years.

Approved January 27, 1870.

AN ACT TO CARRY INTO EFFECT THE PROVISIONS OF THE CONSTITU-TION IN RELATION TO THE RIGHTS OF MARRIED WOMEN.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the real and personal prop- Property not hable for huserty of a married woman, whether held by her at the time of her mar-band's debts. riage or accrued to her thereafter, either by gift, grant, inheritance, devise, purchase or otherwise, shall not be subject to levy and sale for her husband's debts, but shall be her separate property.

SEC. 2. A married woman shall have power to bequeath, devise or convey her separate property in the same manner and to the same extent pose of proas if she were unmarried; and if dying intestate, her property shall de-perty. scend in the same manner as the law now provides for the descent of the property of husbands, and all deeds, mortgages and legal instruments of whatever kind, shall be executed by her in the same manner, and have the same legal force and effect as if she were unmarried.

SEC. 3. A married woman shall have the right to purchase any species

Right to dis-

of property in her own name, and to take proper legal conveyances therefor, and to contract and be contracted with in the same manner as if she were unmarried: Provided, That the husband shall not be liable for the debts of the wife contracted prior to or after their marriage, except for her necessary support.

SEC. 4. All Acts and parts of Acts in conflict with the provisions of

this Act are hereby repealed.

Approved January 27, 1870.

No. 221. AN ACT TO GRANT AND GIVE THE CONSENT OF THE GENERAL ASSEM-BLY OF THIS STATE TO THE CONVEYANCE TO THE UNITED STATES OF THE LOT OF LAND SITUATE ON RICHARDSON AND LAUREL STREETS, IN THE CITY OF COLUMBIA, HEREINAFTER DESCRIBED, FOR THE PUR-POSE OF A POST OFFICE AND COURT HOUSE, OR FOR OTHER PURPOSES, AND TO CEDE TO THE UNITED STATES JURISDICTON THEREIN.

Preamble.

Whereas, the Congress of the United States of America, at the third session of the Fortieth Congress, passed an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy, and for other purposes," which Act was approved on the third day of March, in the year of our Lord one thousand eight hundred and sixty-nine; and the said Act, among other things, provided as follows: "For post office and court house at Columbia, South Carolina, seventy-five thousand dollars: Provided, That the site for the same shall be given to the United States;" and whereas, by deed, dated the twentieth day of October, Anno Domini one thousand eight hundred and sixty-nine, a tract of land for the site of the said post office and court house has been conveyed in due form of law to the United States of America, in conformity to the proviso in the above recited clause of the said Act of the Congress of the United States; and whereas, by a Joint Resolution of the Congress of the United States, approved September the eleventh, one thousand eight hundred and forty-one, entitled "A joint resolution making it the duty of the Attorney-General to examine into the titles of the lands or sites for the purpose of erecting thereon armories and other public works and buildings, and for other purposes," it was resolved, among other things, that no public money should be expended upon any site or land thereafter to be purchased by the United States, for the purposes aforesaid, until the written opinion of the Attorney-General shall be had in favor of the validity of the title, and also the consent of the General Assembly of the State in which the land or site may be should be given to said purchase; therefore,

Consent to

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the consent of the General Assembly of said State be, and is hereby, given to the conveyance, in fee simple, to the United States of America, by the owner or owners thereof, for a post office and court house, and offices connected therewith, for the use of the United States, or for any other purposes to which the Government of the

United States may think proper to apply it, and to exercise authority and jurisdiction over all that lot, piece or parcel of land in the said city of Columbia, situate, lying and being on the corner of the streets known as Richardson street and Laurel street, measuring one hundred and four feet, more or less, on Richardson street, and two hundred and eight feet, of land. more or less, on Laurel street, and containing one half an acre, more or less; bounded on the north by Laurel street, on the east by Richardson street, on the south by lot formerly belonging to Charles Beck and now held by Hugh Weir, and on the west by lot formerly held by Robert N. Lewis, and by his last Will and Testament devised to Daniel B. Lewis, Executor of said last Will and Testament of the said Robert N. Lewis: Provided, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall and may be served and executed on any part of the said premises, and on any person or persons there being and implicated in any matter of law: And provided, always, That the said lot of land, and all the buildings and structures of every kind already thereon erected, or that may hereafter be erected thereon, shall be absolutely and forever exempt from all taxes of the County from taxation of Richland, and the corporation of the City of Columbia, and of the aforesaid State.

A. D. 1870.

Description

Proviso.

Approved January 31, 1870.

AN ACT TO INCORPORATE THE WINNSBORO BAPTIST CHURCH, OF FAIR-FIELD COUNTY, SOUTH CAROLINA.

No. 222.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, all persons who now are, or who hereafter shall or may become, members of the said Society, shall be, and they are hereby, incorporated, and are hereby declared to be a body corporate, by the name and style of the "Winnsboro Baptist Church," and by the said name, shall have succession of officers and members, and have a common seal.

SEC. 2. That the said corporation shall have power to purchase, re- Capital stock. ceive, and possess any real or personal estate, not exceeding in value the sum of twenty thousand dollars, or to sell the same; and, by its corporate name, to sue and be sued in any Court of this State, and to

necessary and expedient.

make such rules and by-laws (not repugnant to law,) as may be thought SEC. 3. That this Act be deemed a public Act, and shall continue in

force for the term of twenty-five years.

Approved February 3, 1870.

AN ACT TO INCORPORATE THE HESTON FIRE ENGINE COMPANY, OF Georgetown, S. C.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Job Mazyck, E. Capers Rai-

Corporators.

ney, David J. Wilson, James McCune Lesesne, Wm. Brunson, and their associates and successors in office, be, and they are hereby, created and constituted a body politic and corporate, by and under the name and style of the "Heston Fire Engine Company, of Georgetown," with a

Capital stock.

capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded, in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure, and to have and enjoy all other rights, privi-Privileges, leges and immunities that are now, or may be hereafter, secured by law to like incorporated bodies.

Sec. 2. This corporation shall enjoy all the rights and privileges sccured to corporations under the Act to regulate the formation of corporations, and be subject to the liabilities therein prescribed, so far as applicable.

SEC. 3. That this Act shall be deemed a public Act, and shall continue

in force for the term of fourteen years.

Approved February 3, 1870.

AN ACT TO VEST IN TONEY STAFFORD THE CHARTER OF A FERRY No. 224. FROM DILL'S BLUFF, ON JAMES' ISLAND, TO CHARLESTON.

ferry.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Establishing bly, and by the authority of the same, That a public ferry shall be, and erry. the same is hereby, established from a place known as Dill's Bluff, on James' Island, to the City of Charleston, and that the said ferry shall be vested in Toney Stafford, his heirs and assigns, for the term of fourteen

corporator.

Proviso.

Sec. 2. That the said Toney Stafford, his heirs and assigns, shall enjoy Privileges of the exclusive charter of said ferry, with the privilege of charging ten cents for each passenger conveyed: Provided, That he shall have the said ferry fully established, and in good working order, within six months after the passage of this Act.

Approved February 3, 1870.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE No. 225. GEORGETOWN RAILROAD COMPANY," AND THE SEVERAL ACTS AMENDA-TORY OF THE SAME.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the charter of the Georget wn Railroad Company, and the Acts amendatory thereto, ratified on the twenty-eighth day of January, in the year of our Lord eighteen hundred and sixty-one, be, and the same are hereby so amended as to authorize the said Company to extend their road to the North Carolina line, in the direction of Charlotte, North Carolina, by the most direct practicable

route: Provided, That said road shall not be located to run parallel within fifteen miles of the South Carolina Central Railroad, and that the corporate name of said Company shall be "The Georgetown and Charlotte Railroad Company," instead of that by which it is now called.

A. D. 1870. Proviso.

SEC. 2. That for the purpose of increasing the capital stock of said books of sub-company to an amount not exceeding two millions of dollars, in shares of scription. fifty dollars each, it shall be lawful to open books of subscription, at such times and places, and to keep them open for such periods of time, and under the direction of such persons as may be determined by said Com-That subscriptions to said capital stock may be made in land, at a rate per acre to be agreed upon at the time of subscription, and that each and every person subscribing land shall execute a deed for the same to the said Company, and that all amounts subscribed, either in land or money, shall constitute a joint stock capital for the purpose of constructing and carrying into operation the Railroad provided for by this Act, and the Acts to which this Act is amendatory.

Nature of subscription.

SEC. 3. That the said Railroad shall be subject to the provisions of an Act entitled "An Act to declare the manner by which the lands, or the right of way over the lands of persons or corporations may be taken for the construction and uses of railways and other works of internal improvement;" and that nothing herein contained shall be so construed as to exempt the said Company from the payment of taxes.

Taxes.

SEC. 4. That all the eighth Section of the charter of incorporation of the said Georgetown Railroad Company, after the word "Provided," and including said word, be, and the same is hereby, repealed: Provided. That the work for the execution whereof the said Company is incorporated shall be commenced within one year from the first day of January next, and be completed within five years thereafter.

Repeal.

Proviso.

SEC. 5. That it shall be lawful for said Company to re-organize, by the election of the necessary officers and Directors.

Sec. 6. All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Approved February 3, 1870.

AN ACT TO AUTHORIZE THE GOVERNOR TO REMOVE COUNTY AUDI-TORS, TREASURERS, AND OTHER OFFICERS BY HIM APPOINTED.

No. 226.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor be, and is hereby, authorized and empowered, whenever to him there appears good and val. sufficient cause, to remove any County Auditor or County Treasurer, or any other civil officer by him appointed, and report the fact, together with his reasons therefor, to the General Assembly.

Governor to

SEC. 2. Any County Auditor or Treasurer, or other officer so removed, who shall attempt to exercise the functions of the office from which he officer removed, after official notice of such removal, or fail, when to turn application is made to him by his successor, to turn over all the books, papers and property of all kind whatsoever pertaining to his office, shall be deemed guilty of a misdemeanor, and on conviction thereof shall, for

each offence, be fined in a sum not less than five hundred dollars, or be imprisoned for not less than six months.

Sec. 3. All Acts or parts of Acts inconsistent with this Act are hereby

repealed.

Approved February 3, 1870.

No. 227. AN ACT TO INCORPORATE THE CHARLESTON LOAN COMPANY.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the persons and bodies corporate who shall become stockholders in the manner hereinafter described, and their successors, shall be a body politic and corporate, under the

name, style and title of the "Charleston Loan Company."

Sec. 2. The capital stock of the said Company shall be one hundred Capital stock. thousand dollars, with the privilege of increasing the same to five hun-

dred thousand dollars, to be divided into shares of one hundred dollars each, and shall be raised in the following manner: The following persons Commission- are hereby appointed Commissioners to receive subscriptions to the capital stock, to wit: Benjamin Mordecai, Wm. Gurney, Z. B. Oakes, J. B. Campbell, E. W. Marshall and A. L. Tobias. The said Commissioners,

or a majority of them, shall open books at such places in Charleston as they shall appoint, within sixty days from the passage of this Act, and receive subscriptions to the said stock: Provided, The said Commissioners shall have given at least three days' notice in two daily gazettes in the City of Charleston of the time and place of receiving the subscriptions, and shall require a payment of twenty dollars on each share to be made at the time of subscription therefor: And provided, further, That

Further pro- the Board of Directors shall have power, in like manner, and at such times as they shall see fit, (by and with the consent of a majority of the stockholders, in ratio of shares,) to increase the said capital to the sum of five hundred thousand dollars.

SEC. 3. That the subscribers paying their subscription money, respect-Corporators. ively, shall form the Company, upon complying with the conditions, and

subject to the provisions hereinafter set forth.

Sec. 4. That if, at the opening of the books, more than one thousand Distribution shares shall be subscribed, the Commissioners shall distribute the thousand shares of which the capital stock is to consist among the subscribers as nearly as may be in proportion to the number of shares subscribed by them, respectively; but the subscriptions of five shares or less shall not be reduced, unless the whole number of shares subscribed for cannot otherwise be reduced to one thousand.

> Sec. 5. That in case the number of shares shall be less than one thousand, the Commissioners may receive further subscriptions to make up that amount at any time within one year after the first opening of the

SEC. 6. That the said Company, under its name, shall have succession of officers and members, and all the powers, privileges and franchises incident to a corporation, and shall be capable of taking, holding and

Establishing Company.

ers to receive subscription.

Proviso.

viso.

of shares.

Powers, privileges, &c.

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disposing of their capital stock according to such rules and regulations as they shall, from time to time, establish, and also of taking, holding or disposing of, or investing the increase, profits or emoluments of their said capital stock, and shall have full power and authority to have and use a common seal, and the same to alter and renew at their pleasure; and, by the name and title aforesaid, shall be able and capable at law and in equity to sue and be sued, plead and be impleaded, answer and be answered unto, in all manner of suits, pleas, demands and judicial proceedings whatever; and they are authorized and empowered to appoint a President, Directors and other necessary officers at such periods and with such duties as the said Company shall see fit; and also to make such rules and by-laws for the good government and management of the affairs of the corporation: Provided, The said rules and by-laws shall not be repugnant to the Constitution and laws of the State and of the United States.

A. D. 1870.

Officers.

By-Laws.

Proviso.

SEC. 7. That the said Company is hereby authorized and empowered to make contracts, and to make loans of money upon security of real estate, ney. personal property and choses in action, upon such terms and at such rates of interest as may be agreed upon between the persons or parties borrowing and the proper officers or attorney of the said Company.

Loan of mo-

SEC. 8. That the said corporation shall be invested with full power to enforce upon their members the due observance of all rules and by-laws members, action against. for the good government and management of the Company, under such penalties as in and by the said rules and by-laws shall be limited and appointed; and to this end, if need be, shall and may institute and maintain, in their corporate name, against any one or more of their members, all necessary suits, actions and pleas, either at law or equity, for the recovery of any sum or sums of money, to the use of the said corporation, in as ample a manner as such suits might be maintained against persons not members of the corporation.

Delinquent

SEC. 9. That one-half of the capital of the Company shall be paid in, and satisfactory proof thereof be furnished to the Comptroller-General, at to be furbefore the said Company shall be authorized to commence business, and the residue of the capital shall be paid in at such times and in such manofone half of one half of one half of the capital shall be paid in at such times and in such manofone half of the capital shall be paid in at such times and in such manofone half of the capital state. ner as the Company may appoint: Provided, The whole shall be paid capital stock. within one year after they shall have commenced business.

SEC. 10. That the said corporation shall have right and power to acquire, purchase, take and hold, in its corporate name, lands and real personal proestate, and the same to demise, grant, sell, assign, exchange and convey, in fee simple or otherwise: Provided, The clear yearly income of the real estate so to be held shall not at any time exceed ten thousand dollars.

Real and

SEC. 11. That this Act shall be deemed a public Act, and the charter hereby granted shall continue and be in force for twenty years.

Approved February 3, 1870.

AN ACT TO INCORPORATE THE DELANEY RIFLE COMPANY, OF CHARLESTON, SOUTH CAROLINA.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly,

Rights and privileges.

and by the authority of the same, That Joseph W. Lloyd, George D. Mitchell, George Simons, Charles Tolliver and James Williams, and Corporators. their successors and associates, shall be, and they are hereby, incorporated and made and declared a body politic and corporate, in deed and in law, by the name and style of the DeLaney Rifles; and as such body politic and corporate, shall have power to make, use, have and keep a common seal, and the same at will to alter; to make all necessary bylaws, not repugnant to the laws of the land, and to have succession of officers and members, conformable to such by-laws, and to sue and be sued, plead and be impleaded in any Court of Law or Equity in this State, and to have, use and enjoy all other rights, and be subject to all other liabilities incident to bodies corporate.

> SEC. 2. That this Act shall be deemed and taken to be a public Act, and shall continue of force for fourteen years from the passage hereof.

Approved February 14, 1870.

No. 229. AN ACT TO PROVIDE FOR THE APPOINTMENT OF CERTAIN OFFICERS THEREIN NAMED.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Certain off- and by the authority of the same, That the Sheriff or Coroner of any cers to appoint deput. County may appoint one or more deputies, to be approved by any Judge of the Court of Common Place of such County; and the act which of the Court of Common Pleas of such County; and the oath which such deputy is required to take by the third Section of this Act may be administered by any officer authorized to administer oaths within such The Recorder, or Clerk of the Court, may also appoint a deputy, to be approved by the Court of Common Pleas of such County; and the Auditor of any County may appoint a deputy, to be approved by the Commissioners of such County: Provided, That the Court or County Commissioners (as the case may be) be satisfied that the duties of Recorder or Auditor require such deputy.

Proviso.

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Sec. 2. That the appointment of every such deputy shall be evi-Certificate of denced by a certificate thereof, signed by his principal, and shall conappointment. tinue during the pleasure of the principal; and every principal may take such bond and security from his deputy as he shall deem necessary to secure the faithful discharge of the duties of his appointment, and the principal shall, in all cases, be answerable for the neglect of duty or misconduct in office of his deputy.

SEC. 3 That every such Deputy shall, previous to entering on the Oath of of duties of his appointment, take an oath or affirmation, as prescribed by the Constitution of the State, faithfully to perform all the duties of his appointment; and, when so qualified, the Deputy may do and perform any and all of the duties appertaining to the office of his principal.

SEC. 4. That all Acts or parts of Acts inconsistent with the provi-

sions of this Act be, and the same are hereby, repealed.

Approved February 14, 1870.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-

bly, and by the authority of the same, That John B. Moore, G. W. Bradford, J. T. Solomons, J. D. Blanding, E. W. Moise, R. B. Cain, T. B. Fraser, D. B. McLaurin, and others, and their associates and successors, are hereby made and created a body politic and corporate, under the name and style of the "Sumter Manufacturing Company," for the pur-

other fabrics and articles as the demands of the community may require, and for procuring and making machinery to carry on said manufactures, and also for the transaction of all such business as may be connected

first had and obtained, and that said stock shall be divided and issued in

AN ACT TO INCORPORATE THE SUMTER MANUFACTURING COMPANY.

A. D. 1870.

No. 230.

Corporators.

Purpose of pose of manufacturing cotton yarns and cloths, cotton seed oil, and such corporation.

with the above purposes, with a capital of one hundred thousand dollars, Capital stock.

with the privilege to increase it to any extent not exceeding four hundred thousand dollars, the consent of a majority of the stockholders being

By-Laws.

SEC. 2. That the said Company shall have such number of officers as shall be ordained and chosen by the rules and by-laws to be made for their government and direction, and shall have power and authority to make all rules and by-laws not repugnant to the laws of the land, to regulate the issue of script and transfer of shares, to have and to keep a common seal, and the same to alter at will, to sue and be sued, plead and be impleaded, in any Court of law or equity, to purchase, take and hold, sell and alien, in fee simple, or for any less estate, lands, tenements, hereditaments, goods, chattels, rights and credits, which may be connected with, or in any manner conducive to, the purposes for which said Company is established: Provided, That this corporation shall enjoy all the privileges, and be subject to all the liabilities and restrictions, of the Act entitled "An Act to regulate the formation of corporations."

Privileges.

Proviso.

SEC. 3. That this Act shall be deemed and taken to be a public Act, and shall continue of force for twenty years.

Approved February 14, 1870.

shares of one hundred dollars each.

AN ACT TO INCORPORATE THE COLUMBIA OIL COMPANY.

No. 231.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That E. P. Alexander, Johnson Hagood, John Bratton, J. C. Haskell, Thomas E. Gregg, F. W. McMaster, W. K. Bachman, Hardy Solomons, and their associates and successors, are hereby made and created a body politic and corporate in law, under the name and style of "The Columbia Oil Company," for the purpose of extracting and manufacturing oil from cotton seed, and other seeds or corporation. grain, and for the purpose of carrying on such other business as may be connected therewith, with a capital of thirty thousand dollars, to be di- Capital stock. vided into three hundred shares of one hundred dollars each.

Corporators.

Purpose of

SEC. 2. The said Company shall have power, from time to time, to increase their capital stock to any amount not exceeding one hundred capital stock.

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A. D. 1870.

State.

thousand dollars, including their present capital stock, whenever a majority of the stockholders present at any general meeting shall determine. Books may be opened for the purpose of obtaining additional subscribers to such increased stock, in such manner as the Company may Affidavit of deem expedient. And whenever any increase of capital shall be made, filed with the as aforesaid, the President of the Company shall make affidavits of the Secretary of fact and file the same in the office of the Secretary of State and make fact, and file the same in the office of the Secretary of State, and make public notice thereof once a week for three weeks, consecutively, in a newspaper in the city of Columbia, which shall be legal notice to all persons dealing with said Corporation.

rights, &c.

SEC. 3. The said Company shall have succession of officers and mem-Privileges, bers, to be chosen according to the rules and by-laws made, and to be made, for their government and direction, and shall have power and authority to make by-laws, not repugnant to the laws of the land; to make, have and use a common seal, and the same to alter at will; to sue and be sued, plead and be impleaded, in any Court of Law and Equity; to purchase and hold any lands, tenements or hereditaments, goods or chattels which may be necessary, connected with, or conducive to, the purposes for which said Company is established.

ment of capi-tal to be filed with Secretary of State.

SEC. 4. The said Corporation shall not go into operation until twenty Proof of pay- thousand dollars of the capital stock shall be paid, in gold or silver or United States Treasury notes, and an oath or affirmation of the payment thereof shall be made by the President, Treasurer, and a majority of the Board of Directors, which shall be recorded in the Secretary of State's office, and published in at least two respectable newspapers in the State, one as near the establishment as circumstances will admit.

Approved February 14, 1870.

No. 232. AN ACT TO REGULATE THE RIGHTS AND POWERS OF RAILROAD COMPANIES.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by authority of the same, That it shall and may be lawful for any Railroad Company or corporation, organized under the laws of this State, and operating a Railroad, either in whole within, or partly within and partly without this State, under authority of this and any adjoining Authorizing State, to merge and consolidate its capital stock, franchises and property the consolidation of two or with those of any other Railroad Company, or Companies or corporations, organized and operated under the laws of this or any other State, whenever the two or more Railroads of the Companies or corporations so to be consolidated shall or may form a continuous line of Railroad with each other, or by means of any intervening Railroad: Provided, That railroads terminating on the banks of any river, which are or may be connected by ferry or otherwise, shall be deemed continuous under this Act: And provided, further, That nothing in this Act contained shall be taken to authorize the consolidation of any Company or corporation of this State with that of any other State whose laws shall not also authorize the like consolidation.

Sec. 2. Said consolidation shall be made under the conditions, provi-

more roads.

Proviso.

sions, restrictions, and with the powers hereafter in this Act mentioned

and contained; that is to say:

 The Directors of the several corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of each Company, enter into a for the consolidation of said Companies and Railroads, and prescribing joint the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the

Directors and other officers thereof, and who shall be the first Directors and officers, and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of the said Companies into that of the new corporation, and how and when Directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of said Companies or Railroads. 2. Said agreement shall be submitted to the stockholders of each of the said Companies or Corporations at a meeting thereof, called separately, for the purpose of taking the same into consideration; due notice of the submitted to stockholders. time and place of holding such meeting, and the object thereof, shall be given by a general notice, published in some newspaper in the city, town or County where such Company has its principal office or place of busi-

ness; and at the said meeting of stockholders the agreement of the said Directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote; and said ballots shall be cast in person or by proxy; and if a majority of all the votes of all the stockholders shall be for the adoption of said agreement, then that fact shall be certified thereon by the Secretary of the respective Companies, under the seal thereof; and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the Secretary of State, and shall, from thence, be deemed and taken to be the to be filed agreement and the act of consolidation of the said Companies; and a with Secretacopy of said agreement and act of consolidation, duly certified by the ry of State. Secretary of State, under the seal thereof, shall be evidence of the existence of said new Corporation.

Agreement

SEC. 3. Upon the making and perfecting the agreement and act of consolidation, as provided in the preceding Section, and filing the same, or a copy, with the Secretary of State, as aforesaid, the several corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, possessing within this State corporation. all the rights, privileges and franchises, and subject to all the restrictions, disabilities and duties of each of such corporations so consolidated.

Nameofnew

Sec. 4. Upon the consummation of said act of consolidation, as aforesaid, all and singular the rights, privileges and franchises of each of said corporations, parties to the same, and all the property, real, personal and mixed, and all debts due on whatever account, as well as of stocks, subscriptions and other things in action belonging to each of such corporations, shall be taken and deemed to be transferred to, and vested in, such vested in, new corporation, without further act or deed; and all property, all rights and property of way, and all and every other interests shall be as effectually the prop-transferred to erty of the new corporation as they were of the former corporations, par-tion. ties by said agreement; and the title to real estate, either by deed or otherwise, under the laws of this State, vested in either of such corpora-

Proviso.

tions, shall not be deemed to revert, or be in any way impaired by reason of this Act: Provided, That all rights of creditors, and all liens upon the property of said corporations shall be preserved unimpaired; and the respective corporations may be deemed to continue in existence to preserve the same; and all debts, liabilities and duties of either of said Companies shall thenceforth attach to said new corporation, and be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

offices.

Sec. 5. Such new Company shall, as soon as convenient after such con-Establish solidation, establish such offices as may be desirable, one of which shall be at some point in this State on the line of its road, and may change the same at pleasure, giving public notice thereof in some newspaper published on the line of said road.

Suits.

Sec. 6. Suits may be brought and maintained against such new Company in any of the Courts of this State, for all causes of action, in the same manner as against other railroad companies therein.

Taxation.

Sec. 7. That portion of the road of such consolidated Company in this State, and all its real estate and other property heretofore subject to taxation, shall be subject to like taxation, and assessed in the same manner, and with like effect, as property of other railroad companies in this State.

stockholder shares.

Remedy.

Damages rded by awarded

Sec. 8. Any stockholder of any Company hereby authorized to con-Refusal of solidate with any other, who shall refuse to convert his stock into the to convert his stock of the consolidated Company, may, at any time within thirty days after the adoption of the said agreement of consolidation by the stockholders, as in this Act provided, apply, by petition, to the Court of Common Pleas of the County in which the chief office of said Company may be kept, or to a Judge of said Court in vacation, if no such Court sits within said period, on reasonable notice to said Company, to appoint Appraisers. three disinterested persons to estimate the damage, if any, done to such stockholder by said proposed consolidation, and whose award, or that of a majority of them, when confirmed by the said Court, shall be final and conclusive; and the persons so appointed shall also appraise said stock of said stockholder at the full market value thereof, without regard to any depreciation or appreciation in consequence of the said consolidation; and the said Company may, at its election, either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined, and upon the payment of the value of the stock, as aforesaid, the stockholder shall transfer the stock so held by him to said Company, to be disposed of by the Directors of said Company, or to be retained for the benefit of the remaining stockholders; and in case the value of said stock, as aforesaid, is not so paid within thirty days from the filing of said award, and confirmation by said Court, and notice to said Company, the damages, so found and confirmed, shall be a judgment against said Company, and collected as other judgments in said Court are by law recoverable.

SEC. 9. When any railroad shall be sold and conveyed by virtue of any mortgage or deed of trust, or under and by virtue of any process or decree of any Court of this State, or of the Circuit Court of the United States, it may be lawful for any Company, of which the railroad connects therewith, to purchase and pay for the same, to issue their own stock for such an amount as the purchasers may deem the full and fair value

thereof, and to hold and enjoy the Railroad so purchased, with all the rights, privileges and franchises, and with the same rights to charge for tolls, transportation, and car services, and subject to the same restrictions as were held, enjoyed and limited by and in respect to the Company of which the road may be so sold.

A. D. 1870.

SEC. 10. It shall and may be lawful for any Railroad Company other created by, and existing under the laws of this State, from time to time, roads. to purchase and hold the stock and bonds, or either, of any other Railroad Company or Companies chartered by, or of which the road or roads is or are authorized to extend into this State; and it shall be lawful for any Railroad Companies to enter into contracts for the purchase, use or lease of any other Railroads, upon such terms as may be agreed upon with the Company or Companies owning the same, and to run, use and operate such road or roads in accordance with such contract or lease: Provided, That the roads of the Companies so contracting or leasing shall be directly, or by means of intervening railroads, connected with each other.

May lease Rail-

Proviso.

SEC. 11. At all general or special meetings or elections of the stockholders of any Railroad Company incorporated by this State, each share stockholders. of stock shall entitle the holder thereof to one vote: Provided, That nothing herein contained shall affect any other provisions of the charter of such Company except such as relate exclusively to the number of votes to which the holders of the shares of stock therein may be entitled.

Votes of

Proviso.

SEC. 12. All Railroad Companies incorporated under the laws of this corporations at which shall relieve the State from all liability by paying the prinstate of liabil-State which shall relieve the State from all liability by paying the principal and interest of all securities for which the State is, or may be, liable, or by depositing with the Comptroller-General of the State good and sufficient security for such payment, within two years from the pas- General shall sage of this Act, shall, upon the official certificate of the Comptroller-give certificate to that General, that all liability of the State for such Railroad Companies has effect. been extinguished, and that all liens of the State for such liability have been removed, be entitled to an extension of their respective charters for charter. the period of fifty years from the date of their having relieved the State of such liability.

ities.

Comptroller

Extension of

Sec. 13. All Acts or parts of Acts in any way conflicting with the provisions of this Act, are hereby repealed.

SEC. 14. This Act shall take effect and have the full force of law from and after its passage.

Approved February 14, 1870.

AN ACT TO SECURE EQUAL CIVIL RIGHTS, AND TO PROVIDE FOR THE ENJOYMENT OF ALL REMEDIES IN LAW BY ALL PERSONS, REGARD-LESS OF RACE OR COLOR.

No. 233.

Whereas, the Constitution of this State, in Article I, Section 39, provides that "Distinction on account of race or color, in any case whatever, shall be prohibited, and all classes of citizens shall enjoy equally all common, public, legal and political privileges;" and whereas, serious doubts are entertained as to whether the remedies, in certain cases, Preamble.

under existing Statutes, are applicable to colored as well as white persons; therefore,

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That wherever authority has heretofore been conferred by law upon any free white person or persons to institute any suit or proceedings, or to prefer any information or complaint in any matter, civil, penal or criminal, the same rights shall be enjoyed by, and the same remedies applicable to, all persons whatsoever, regardless of race or color, subject to the same conditions, and none others.

Sec. 2. All Acts or parts of Acts inconsistent with this Act, or in any way conflicting with the provisions of this Act, are hereby repealed and declared of no effect.

Approved February 14, 1870.

No. 234. AN ACT TO PROVIDE FOR A GENERAL ELECTION OF COUNTY OF-FICERS.

Electionwhen held.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem $oldsymbol{\bot}$ bly, and by the authority of the same, There shall be a general election to be for the election of the various County officers (elective) held in each County on the third Wednesday of October, Anno Domini one thousand eight hundred and seventy, and on the same day in every second year thereafter, the officers otherwise provided for in the Constitution of the State excepted.

Sec. 2. That the present County officers shall continue to perform the duties of their respective offices until their successors shall be elected and duly qualified.

SEC. 3. That all Acts or parts of Acts inconsistent with this Act are

hereby repealed.

Approved February 14, 1870.

AN ACT FOR THE BETTER PROTECTION OF MIGRATORY FISH. No. 235.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passage of this Act there To remove shall be a close time in each of the inland streams of this State, from the sitting of the sun of each Saturday until the rising of the sun on each Monday, during which time all seins, nets, wires or any plan or device for the stoppage of or catching of fish, which obstruct more than twothirds of the width of any stream other than a dam for manufacturing purposes, shall be removed from the water, and the owner in whole or part of any such obstruction, plan or device shall be liable to a fine of twenty dollars for each and every offence, one-half to go to the informer,

Failure-fine. and the other half to the use of the County.

obstructions

in rivers.

Approved February 14, 1870.

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AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO EMPOWER CIRCUIT JUDGES TO CHANGE THE VENUE FOR THE TRIAL OF ACTIONS, BOTH CIVIL AND CRIMINAL."

A. D. 1870. No. 236.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section first of an Act entitled "An Act to empower Circuit Judges to change the venue for the trial of actions, both civil and criminal," passed September the twenty-first, eighteen hundred and sixty-eight, be, and the same is hereby, so amended as to authorize and empower the Circuit Judges of this State to change the venue in all cases, civil and criminal, by ordering the record to be removed for trial to any County adjoining the County in which the action or prosecution was commenced, or to any County, in the discretion of the presiding

Amendment.

Approved February 14, 1870.

AN ACT TO INCORPORATE THE INDEPENDENT ELLIOTT HOOK AND No. 237. LADDER COMPANY, No. 1, OF ORANGEBURG, SOUTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That John A. Hamilton, M. Albright, W. T. Lightfoot and Charles S. Bull, their associates and successors in office, be, and they are hereby, constituted a body corporate and politic, under the name and style of the Independent Elliott Hook and Ladder Company, No. 1, of Orangeburg, South Carolina, with a capital stock not Capital stock. exceeding five thousand dollars, with the right to sue and be sued, to plead and be impleaded, in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure, and with all other rights, privileges and immunities that are now secured by law to like incorporate bodies.

Corporators.

Powers and privileges.

SEC. 2. That this Act shall be deemed a public Act, and shall remain in force for the term of fourteen years.

Approved February 14, 1870.

AN ACT TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE COMMON SCHOOLS FOR THE STATE OF SOUTH CAROLINA.

No. 238.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same:

State Board of Education.

That the State Board of Education shall consist of the several County County school School Commissioners and the State Superintendent of Education, who ers and Supershall be exactly and who shall be extitled to intendent of shall be ex officio Chairman of the Board, and who shall be entitled to Education.

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A. D. 1870.

The Board may elect one vote on all questions submitted to the Board. of its members as Secretary.

Meeting.

Mileage.

SEC. 2. That the State Board of Education shall hold its first meeting at the Capital of the State on the second Wednesday after the approval of this Act, and shall thereafter meet on the first Wednesday in October of every year at the Capital of the State, and at such other times and places as the State Superintendent of Education shall direct. The members of the Board shall be entitled to receive a mileage at the rate of twenty (20) cents per mile, going to and returning from the meetings of the Board aforesaid, to be paid by the State Treasurer on presenta-

tion of a certificate signed by the Chairman and Secretary of the Board.

others to con-stitute Commission to sesuitable text-books.

Sec. 3. That, for the purpose of procuring an uniform system of text-Governor and books, to be used in the common and public schools throughout the State, there shall be a Commission of five appointed, to consist of His Excellency the Governor, who shall be ex officio Chairman; the Chairmen of the Committee on Education of the Senate and House of Representatives; and, for the purpose of selecting the other two members, the Senate shall, by a majority of votes, appoint one, and the House of Representatives shall, in like manner, select the other: Provided, That the Commission, having decided upon a list of text-books, such list shall not be subject to amendment or change until the first of January, 1873, unless authority be granted to the Commission, by Act of the General Assembly, to amend or change the list aforesaid: And provided, further, That the Commission shall decide upon a list of text-books to be used in the common and public schools throughout the State, and shall furnish the same to the Board of Education at its first session. The meetings of the State Board of Education shall be held for the purpose of considering such matters as may be deemed necessary, and of taking such action as may advance the cause of common school education in this State.

Proviso.

books for pupils.

Assessor charge cost.

Sec. 4. Books shall be furnished to the pupils in the public and com-To furnish mon schools of this State at ten per cent. above their cost to the State; and, in all cases where the parents neglect or refuse to furnish their children, attending such schools, with suitable books, the Trustees of the several school districts are hereby authorized to furnish the same gratuitously to such pupils as they may be satisfied are unable to pay for them; but in all other cases they shall furnish books to the pupils who have failed to purchase books, and certify the cost of the same, with the name The County of the person against whom they are charged, to the Assessor within whose district such school district may be situated at the time when the annual assessment of property is made; and it shall be the duty of said Assessor to return the amount, so certified, to the Auditor of his County, whose duty it shall be to place the same upon the County duplicate, and cause it to be collected at the same time and in the same manner that State and County taxes are collected.

Treasurer to pay in thereof.

Sec. 5. That the State Board of Education shall take and hold in Board to hold trust, for the State, any grant or devise of lands, and any gift or bequest real and personal propert of money, or other personal property, made to it for educational purposonal property. ses, and shall pay into the State Treasury, for safe-keeping and investment, all moneys and incomes from property so received. The State Treasurer shall, from time to time, invest all such money in the name of the State, and shall pay to the State Board of Education, on the warrant of the Governor, the income or principal thereof, as it shall, from time

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to time, require: Provided, That no disposition shall be made of any grant, devise, gift or bequest inconsistent with the conditions or terms thereof. For the faithful management of all property so received by the State Treasurer, he shall be responsible, upon his bond, to the State, as for other funds received by him in his official capacity: Provided, however, That the Trustees of any School District of this State may take and viso. hold in trust, for their particular School District, any grant or devise of lands, and any gift or bequest of money, and apply the same in the interest of the schools of their District, in such manner as in their judgment seems most conducive to the welfare of the schools, when not otherwise directed by the terms of the said grant, or devise, gift or bequest: And provided, further, That before said Trustees shall assume control of any such grant, devise or bequest, they shall give a bond, to be approved of by the School Commissioner of the County in which such grant, devise or bequest is made, said bond to be deposited with Clerk of the Court of said County.

A. D. 1870. Proviso.

Further pro-

State Superintendent of Education.

SEC. 6. That the present State Superintendent of Education shall continue in office until the election and qualification of his successor. At the general election in 1872, and every four years thereafter, a State Superintendent of Education shall be elected, in the same manner as other State officers, who shall enter upon the duties of his office on the first day

of January succeeding his election.

SEC. 7. That he shall, before entering upon the duties of his office, give bond, for the use of the State of South Carolina, in the penal sum of five thousand (5,000) dollars, with good and sufficient sureties, to be approved by the Governor, conditioned for the faithful and impartial performance of the duties of his office; and he shall, also, at the time of giving bond, take and subscribe the oath prescribed in Section 30 of Article II of the Constitution of the State, which oath shall be endorsed upon the back of said bond, and the bond shall be filed with, and preserved by, the Secretary of State.

SEC. 8. That the State Superintendent of Education shall receive, as compensation for his services, the sum of two thousand five hundred tion. (2,500) dollars per annum, together with his actual cost of transportation when traveling on public business, payable quarter-yearly out of the State

Treasury.

Sec. 9. That he shall have general supervision over all the common and To improvise public schools of the State, and it shall be his duty, as far as practicable, to visit every County in the State, for the purpose of inspecting the schools, awakening an interest favorable to the cause of education, and diffusing as widely as possible, by public addresses and personal communication with school officers, teachers and parents, a knowledge of existing defects, and of desirable improvements in the government and instruction of the schools.

SEC. 10. That he shall secure uniformity in the use of text books throughout the common and public schools of the State, and shall forbid the use of sectarian or partisan books and instruction in the schools.

SEC. 11. That he shall prepare and transmit to the several County School Commissioners, school registers, blank certificates, reports, and

Term of of-

Bond.

Compensa-

Uniformity

To furnish County Com-missioners with blanks, &c.

such other suitable blanks, forms and printed instructions as may be necessary to aid school officers and teachers in making their reports and carrying into full effect the various provisions of the school laws of this State; and shall cause the laws relating to common schools, with such rules, regulations, forms and instructions as shall be prescribed by the Board of Education, to be printed, together with a suitable index, in pamphlet form, by the person authorized to do the State printing, at the expense of the State; and he shall cause copies of the same to be transmitted to the several County School Commissioners for distribution.

SEC. 12. That it shall be the duty of the State Superintendent of rare works on charts as can be obtained without expense to the State; and also to pur-Education to collect, in his office, such school books, apparatus, maps and chase, at an expense not exceeding fifty dollars a year, rare and valuable works on education, for the benefit of teachers, authors and others who may wish to consult them; and the said sum is hereby annually appropriated for this purpose out of any moneys in the State Treasury not otherwise appropriated.

SEC. 13. That copies of all papers filed in the office of the State

Superintendent of Education and his official acts may be certified by him, and, when so certified, shall be evidence equally and in like manner as the

original papers.

Annual report.

SEC. 14. That the State Superintendent of Education shall submit, in his annual report, a statement of his official visits during the past year. SEC. 15. That he shall make a report, through the Governor, to the

General Assembly, at each regular session thereof, showing:

piling report.

1st. The number of persons between the ages of six (6) and sixteen Mode of com- (16) years, inclusive, residing in the State on the first day of the last preceding October.

2d. The number of such persons in each County.

3d. The number of each sex. 4th. The number of white 5th. The number of colored.

6th. The whole number of persons that attended the free common schools of the State during the year ending the thirtieth day of the last preceding September, and the number in each County that attended during the same period.

7th. The number of whites of each sex that attended, and the number

of colored of each sex that attended the said schools.

8th. The number of common schools in the State.

9th. The number of pupils that studied each of the branches taught.

10th. The average wages paid to teachers of each sex.

11th. The number of school houses erected during the year, and the

location, material and cost thereof,

12th. The number previously erected, the material of their construction, their condition and value, and the number with their grounds en-

13th. The Counties in which teachers' institutes were held, and the num-

ber that attended the institutes in each County.

14th. Such other statistical information as he may deem important, together with such plans as he may have matured, and the State Board of Education may have recommended for the management and improve-

ment of the school fund, and for the more perfect organization and efficiency of the common schools.

SEC 16. That he shall have power to examine all persons who may make application to him, as to their qualification for teaching school in teachers. this State; and that to all persons of good moral character who pass a satisfactory examination he shall issue a certificate of qualification for teaching school in the State of South Carolina; which certificate shall authorize the person to whom it is given to teach in any of the common schools of this State, in which his or her services may be desired by the Trustees of the school in which he or she may make application to teach, without any further evidence of qualification. Said certificate shall be

valid for the term of two (2) years, unless sooner revoked.

SEC. 17. That he shall annually, on the first day of November, or as soon as practicable thereafter, apportion the income of the State school Apportion ment of State fund, and the annual taxes collected by the State for the support of School Fund. schools, among the several school districts of the State, in proportion to the respective number of pupils attending the public schools, and he shall certify such apportionment to the State Treasurer. He shall also certify to the Treasurer and School Commissioner of each County the amount apportioned to their County, and he shall draw his orders on the State Treasurer in favor of the County Treasurer of each County for the amount apportioned to said County.

SEC. 18. That there is hereby appropriated, out of any money in the SEC. 18. That there is hereby appropriated, out of any money in the Appropriated Treasury not otherwise appropriated, the sum of eight hundred ting \$100 tor the ting \$100 tor (800) dollars annually, to the State Superintendent of Education, for the purpose of defraying the expenses of clerk hire in the office of said State Superintendent of Education; said sum to be drawn quarterly by him, and to be disbursed by the said State Superintendent for the purpose herein named: Provided, That the said sum of eight hundred (800) dollars shall be in full for the annual payment of all clerk hire of said Depart-

SEC. 19. That the State Superintendent of Education shall discharge such other duties as may be provided by law; and he shall deliver to his successor, within ten days after the expiration of his term of office, all books, papers, documents and other property belonging to his office.

Sec. 20. That, in case of vacancy in the office of State Superintendent nor may apoint Superintendent, the Governor shall appoint, with the advice and consent point Superintendent. of the Senate, a person to fill such vacancy, who shall qualify within fifteen days after his appointment, and shall continue in office until the next ensuing general election, when a person shall be elected to fill the unexpired term; and should the person so appointed fail to qualify within the time specified, such failure shall create a vacancy.

A. D. 1870.

To examine

Certificate.

The Gover-

Term of of-

County School Commissioners.

SEC. 21. That the present County School Commissioners shall continue in office until their successors are elected and qualified. There shall be need elected in each County, at the general election in October, A. D. 1870, and at the general election every two years thereafter, a School Commissioner, who shall hold his office until his successor is elected and qualified.

SEC. 22. That on the first day of January next succeeding the date of



his election, he shall take and subscribe the oath of office prescribed in Section 30, Article II, of the Constitution of this State, which oath he shall file in the office of the Clerk of the Court of the County in which he was elected, and shall immediately enter upon the discharge of his duties; and upon his failure so to do, or if for any other cause there should be a vacancy in the office, the Governor shall appoint a person to fill such vacancy, who shall qualify within fifteen days after his appointment, and shall continue in office until the time prescribed for filling said office by election, as herein provided; and should the person so appointed fail to qualify within the time specified, such failure shall create a vacancy.

erally.

Sec. 23. That he shall have the general supervision of all the common Duties gen- and public schools in his County. He shall visit each school in the County at least once each regular term thereof, counsel with and encourage Trustees and teachers, see that the common school law is properly enforced, and do whatever may promote the cause of education in the

learning.

Sec. 24. That it shall be his duty to see that in every school under his Branches of care there shall be taught, as far as practicable, orthography, reading, writing, arithmetic, geography, English grammar, history of the United States, the principles of the Constitution and Laws of the United States

and of this State, and good behavior.

Report.

SEC. 25. He shall, on or before the first day of October in each year, forward to the State Superintendent of Education an extended report, containing an abstract of the reports made to him by the various school officers and teachers in his County, and showing the condition of the schools under his charge, suggesting such improvements in the school system as he may deem useful, and giving such other information in regard to the practical operation of the common schools, and laws relating thereto, as may be deemed of public interest. He shall also include, in his report, such other matters as he shall be directed to report by the State Superintendent of Education.

Failure.

Sec. 26. That should he fail to make the report required in the preceding Section, he shall forfeit to the school fund of his County the sum of fifty (50) dollars, and shall, besides, be liable for all damages caused by such neglect.

Sec. 27. That he shall, at all times, conform to the instructions of the State Superintendent of Education, as to matters within the jurisdiction of said State Superintendent. He shall serve as the organ of communication between the said State Superintendent and school authorities. He shall transmit to school officers, or teachers, all blanks, circulars, and other communications which are to them directed.

tion.

Sec. 28. That each County School Commissioner shall receive as com-Compensa- pensation for his services, including expenses of transportation within his County, an annual salary of one thousand (1,000) dollars, except the County of Charleston, in which County he shall receive an annual salary of fifteen hundred (1,500) dollars, payable quarterly by the State Treasurer.

County Board of Examiners.

Office.

SEC. 29. That the County Commissioners of the several Counties shall furnish the School Commissioners of their respective Counties with an office and the necessary office furniture.

SEC. 30. That it shall be the duty of each County School Commissioner, immediately after the passage of this Act, to divide his County into convenient School Districts, for all purposes connected with the Counties into general interest of education, and re-district the same, whenever, in his school judgment, the general good requires it. Each District shall be confined to the management and control of the Board of School Trustees hereinafter provided for, who shall hold their office for two years, and until their successors are elected and qualified.

A. D. 1870. Division of

Of County Boards of Ex-

SEC. 31. It shall be the duty of the School Commissioner of each County to select two suitable and discreet persons, who, together with aminers. himself, shall constitute a Board of Examiners, whose duty it shall be to examine all candidates for the profession of teacher, and to give such persons as are found qualified a certificate setting forth the branches of learning he or she may be found capable of teaching; such examination to be renewed every year. No teacher shall be employed in any of the common or public schools without a certificate from the Board of Examiners or the State Superintendent; but certificates furnished by the Board of Examiners shall be valid only in the Counties where issued. A majority of the County Board of Examiners shall have power, for good and sufficient reasons, to cancel any certificate issued by them before the expiration of the time for which said certificate was granted.

SEC. 32. That the Board of County School Examiners shall meet at least twice a year, at such places, and at such times, as the County School Commissioner shall appoint; that the County School Commissioner shall be Chairman and Clerk of the Board, and shall keep a fair record of their proceedings, and a register of the name, age, sex, color, residence and date of certificate of each person to whom certificate is issued, and in case a certificate be cancelled, shall make a proper entry of the same.

Duties.

SEC. 33. That it shall be the duty of the County Board of School Examiners, at their first meeting, to order, in and for each and every school district in their County, an election for a Board of three (3) School Trustees, whose duties shall be as hereinafter prescribed. The said County Board shall also have power to fill, by appointment, all vacancies which may occur in the respective School District Boards of School Trustees in their County.

School Districts and Trustees.

SEC. 34. For the purpose of conducting the election provided for in the foregoing Section, a public meeting of the voters of each school district shall be called by order of the County Board of Examiners; said meeting shall be presided over by one member of said Board of Examiners. or a person by them appointed; shall appoint a Secretary, who shall keep a fair record of its proceedings, to be deposited with the County School Commissioner, and shall then proceed to elect three persons, resident in the said school district, to serve as School Trustees for one year: Provided. That fifteen days' notice shall be given of every such public meet-

Trusteesterm of office.

SEC. 35 That the said Trustees, within fifteen (15) days after their appointment or election, shall take an oath or affirmation faithfully and impartially to discharge the duties of their office, which oath the mem-

bers are authorized to administer to each other.

Oath.

http://www.hathitrust.org/access

A. D. 1870. SEC. 36. That it shall be the duty of the said Trustees, any two of whom shall constitute a quorum, to meet as soon as practicable after having been appointed or elected and qualified, at such place as may be most convenient in the district, and organize by appointing one of their Clerk—his number Clerk of the Board, who shall preside at the official meetings of the Trustees, and shall record their proceedings in a book provided for that purpose: Provided, That each member of the Board shall be duly notified of such meetings by the School Commissioners of the

County. SEC. 37. That it shall be the duty of the Trustees in each school dis-Control of trict to take the management and control of the local educational interests of the same, subject to the supervision of the County School Commissioner, and to visit the school at least twice in every month during the school term.

Sec. 38. That it shall be the duty of the Trustees in the several school Enumeration districts to make, or cause to be made, annually, in each school district, by the first day of September, an enumeration of all the children between the ages of six (6) and sixteen (16) years, resident within such school district, distinguishing between male and female, white and colored; and the Clerk of said Board of Trustees shall return to the County School Commissioner a duplicate report of the same: Provided, That in case the enumeration of scholastic population of any school district is not made, as provided for in this Act, by that time, the County Board of School Examiners is herewith authorized to appoint new Trustees for such school district, unless for good and sufficient cause the Trustees have failed to act.

> SEC. 39. It shall be the duty of the Board of Trustees to hold a regular session in their School District at least two weeks before the commencement of any or every school term, for the transaction of any and all business necessary to the prosperity of the school, with power to adjourn from time to time, and to hold special meetings at any time or

place. SEC. 40. That the Board of Trustees shall have power to establish and School build- make all arrangements for the common schools of districts, paying due regard to any school-house already built or site procured, as well as to all other circumstances proper to be considered, so as to best promote the

educational interest of their district: Provided, That if said Board of Trustees shall fail to establish schools and build school-houses, when and where the necessities of the people require them, it shall be the duty of the County School Commissioner, and he shall have the power, to establish and build the same at the expense of the school fund of such School They shall employ teachers from among those having certifi-District. cates, and discharge the same when good and sufficient reasons for so doing present themselves; but they shall employ no person to teach in any of the schools under their supervision unless such person shall hold, at

the time of commencing his or her school, a certificate to teach, granted by the County Board of School Examiners, or by the State Superinten-

dent of Education. SEC. 41. That should the Board of Trustees be unable otherwise to pro-Jury of view cure sites for school houses, they are hereby authorized to appoint a jury assess value of view of five legal voters of the County, who shall locate said site as Jury of view

the public interest may require; but, except in a city, town or village,

Proviso.

duties.

local education.

of school children.

Session.

ings.

Proviso.

Employment and discharge of teachers.

said site shall not be located within two hundred yards of the dwelling of the owner of the land taken for said site without his consent, given in writing. The said jury shall assess the value of the same, and report their action to the Board of Trustees, who shall secure the title and pay for the site, as decided by the jury of view, out of any moneys available for that purpose.

Transfer of

A. D. 1870.

SEC. 42. That when it shall so happen that persons are so situated as to be better accommodated at the school of any adjoining School District, or whenever it may be desirable to establish a school composed of parts of two or more School Districts, it shall be the duty of the respective Boards of Trustees of the School Districts in which such persons reside, or in which such schools may be situated, or of the School Districts, or the parts of which the school is to be composed, to transfer such persons for education to the School District in which such school house is or may be located; but the enumeration of scholars shall be taken in each District as if no such transfer had been made; and such school, when so composed, shall be supported from the school funds of the respective School Districts from which the scholars may have been transferred.

Sec. 43. That the school year shall commence on the first Monday of October, and close on the last Friday of June in each year; but the County School Commissioner shall have power to limit the school year

according to the school fund apportioned to his County.

SEC. 44. That it shall be the duty of each school teacher to make out and file with the Clerk of the Board of Trustees, at the expiration of file a report with Trustee. each school month, a full and complete report of the whole number of scholars admitted to the school during each month, distinguishing between male and female, the average attendance, the branches taught, the number of pupils engaged in each of said branches, and such other statistics as he or she may be required to make by the County School Commissioner; and until such report shall have been certified and filed by the said teacher, as aforesaid, it shall be the duty of said Board of Trustees to require the same, and forward to the County School Commissioner, before said teacher can draw pay for his or her services.

SEC. 45. That the State Superintendent of Education, or any County School Commissioner, or School District Board of Trustees, may receive, in behalf of the State Board of Education, any gift, grant, donation or devise of any school house, or site for a school house, or library for the use of any school or schools, or other school purposes within the State, and are hereby invested with the care and custody of all school houses, sites, or other property belonging to the State Board of Education within the limits of their jurisdiction, with full powers to control the same in such manner as they may think will best subserve the interests of common schools and the cause of education, subject to the control of the State Board of Education.

Charleston City Board of School Commissioners.

SEC. 46. That it shall be the duty of the School Commissioner of Charleston County to organize, in all those Districts outside of the city of schools. Charleston, formerly known as Parishes, a suitable number of schools, as soon as practicable after the passage of this Act. He shall visit said schools not less than twice during each year, and shall perform such

Teacher to

School year.

Gift, grant, donation, &c.

other duties as are prescribed for County School Commissioners in this Upon failure or neglect to discharge the duties imposed upon him by this Section, when reported to the State Superintendent of Education, the said State Superintendent is hereby empowered to take such measures as, in his judgment, may be necessary to enforce a faithful performance of duty on the part of said School Commissioner.

School Com-missioners—

SEC. 47. That the School Commissioner of Charleston County, in con-Board of junction with one suitable and discreet person from each ward in the city of Charleston, to be appointed by the Governor, shall constitute the how appoint- Charleston City Board of School Commissioners, and who shall continue in office until their successors are elected and qualified. The School Commissioner of Charleston County shall be ex officio Chairman of the said Board, and may assemble the members thereof any time at his dis-They (the Board) may appoint one of their number Clerk of the said Board. The powers and duties of the Board aforesaid shall be the same as those of the Board of School Trustees of the several School

Clerk.

Districts. SEC. 48. That at the next regular municipal election held in the City of Charleston, and at every regular municipal election thereafter, one School Commissioner shall be elected by the legal votes of each ward, who shall continue in office until his successor is elected and qualified.

SEC. 49. That all Acts or parts of Acts inconsistent with this Act, or

supplied by it, are hereby repealed.

SEC. 50. That this Act shall take effect from its passage.

Approved February 16, 1870.

AN ACT to Incorporate as a Public Highway the Road known No. 239. AS THE COX BRIDGE ROAD.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the road now known as the Cox Bridge Road, leading from the County of Pickens to the City of Greenville, and crossing Saluda River at Cox's Bridge, be, and the same is Made public hereby, established as a public highway of the Counties of Greenville and Pickens, and that it shall be the duty of the County Commissioners Commission- of joint Counties to keep the same at all times in good repair by the

highway.

ers to keep in repair.

SEC. 2. That the said bridge and road known as Cox's Bridge and Road, shall not be discontinued as a public road and bridge, unless by a special Act of the Legislature.

same means by which the public roads of joint Counties are repaired.

Approved February 18, 1870.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF COLLETON No. 240. AND SPARTANBURG COUNTIES TO LEVY AN ADDITIONAL TAX TO PAY THE INDEBTEDNESS OF THEIR RESPECTIVE COUNTIES, AND FOR OTHER Purposes therein Mentioned.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly,

and by the authority of the same, That the County Commissioners of Colleton County be, and they are hereby, authorized to levy an additional tax upon the real and personal property in said County of two and a half mills on the dollar, for the purpose of liquidating the indebtedness of the County.

A. D. 1870. Colleton.

SEC. 2. That the County Commissioners of Spartanburg County be, and they are hereby, authorized to levy an additional tax of two mills on the dollar upon the assessed value of the real and personal property in

Spartanburg.

said County, for the purpose of paying the indebtedness of the County. SEC. 3. That the County Commissioners of Beaufort County be, and they are hereby, authorized to expend for the erection of County buildings so much of the County funds as may be necessary, not exceeding the sum of seven thousand five hundred dollars per annum for the years 1870 and 1871.

Beaufort.

Approved February 18, 1870.

AN ACT TO INCORPORATE THE GROVE STATION BRIDGE COMPANY.

No. 241.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That S. Dalton, S. F. Trowbridge, R. S. Elrod, N. S. Clardy and A. B. Holland, of Anderson and Greenville Counties, and their associates and successors, be, and the same are hereby, declared to be a body politic and corporate, by the name and

Corporators.

style of the Grove Station Bridge Company. SEC. 2. That the said corporation shall have the privilege to keep in

To keep the bridge in re-

good repair the bridge now built over the Saluda River, near the depot at Golden Grove, on the Greenville and Columbia Railroad, and known as Grove Station Bridge, for the term of fourteen years, and be allowed to receive and collect the following rates of toll, to wit: For a footman, five (5) cents; for a man and horse, ten (10) cents; for all carriages drawn by one horse, mule or ox, twenty (20) cents; for all carriages drawn by two horses, mules or oxen, twenty-five (25) cents; for all carriages drawn by three horses, mules or oxen, thirty (30) cents; for all carriages drawn by four horses, mules or oxen, forty (40) cents; for all carriages drawn by five or six horses, mules or oxen, fifty (50) cents; for horses, single, five (5) cents per head; for cattle, three (3) cents per head; and for hogs and sheep three (3) cents per head: Provided, All passengers shall be charged only one fare for going and returning on the same day: And provided, further, That no one shall be charged going to or returning from Church or elections, or children going to or returning from school.

Rates of toll.

Proviso.

SEC. 3. The said Company shall be subject to any regulations hereafter adopted by the General Assembly for the government of such Companies. Approved February 18, 1870.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF DARLINGTON COUNTY TO LEVY A SPECIAL TAX FOR THE CONSTRUCTION OF A COURT HOUSE

No. 242.

SECTION 1. Be it enacted by the Senate and House of Representatives

Authority.

Officers.

Seal.

By-Laws.

Weight.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners of Darlington County be, and they are hereby, authorized and empowered to levy, in addition to the tax already authorized by law, a special tax of two mills on a dollar for the construction of a Court House at Darlington.

Approved February 18, 1870.

No. 243. AN ACT TO INCORPORATE THE UNITY AND FRIENDSHIP SOCIETY, OF CHARLESTON, AND TO CONFER CERTAIN POWERS THEREON.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That William Eden, Robert Morrison, Corporators. J. N. Izard, Robert Turner, Charles C. Leslie and J. J. Connerville, and all other persons who now are, or shall hereafter become, members of the corporation hereby created, shall be, and are hereby, incorporated as a

Section 1. Be it enacted by the Senate and House of Representatives

body politic and corporate, and shall be known, in deed and law, by the name of "The Unity and Friendship Society, of the City of Charleston." SEC. 2. That the said corporation, by its name aforesaid, shall have

perpetual succession of officers and members, to be appointed or elected in such manner, and according to such form, as may be provided by the rules and regulations now existing, or hereafter to be made, for the government of said Society; and said corporation shall have a common seal, with power to alter the same, together with the said rules and regulations, in such manner and as often as it shall deem necessary and

proper.

SEC. 3. That the said corporation shall be capable to have, hold and Capital stock. enjoy any estate, real or personal, in perpetuity, or for term of years, whether acquired by donation, device or purchase: Provided, That the value of the estate so held shall not exceed the sum of fifty thousand (50,000) dollars at any one time; and to lease, alien or convey the same in full or for term of years in any way it may deem proper; and may sue and be sued, plead and be impleaded, answer and be answered unto, in any Court in the State.

Sec. 4. That this Act shall be deemed a public Act, and shall continue

in force for the term of fourteen years.

Approved February 18, 1870.

AN ACT TO ESTABLISH THE WEIGHT OF A BARREL OF CRUDE TUR-No. 244. PENTINE.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That in the absence of satisfactory proof of a special stipulation to the contrary, it shall, from and after the passage of this Act, be presumed and held that the quantity and weight of crude turpentine, to make a barrel thereof, is two hundred and eighty

Approved February 21, 1870.

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AN ACT TO REGULATE THE PUBLICATION OF ALL LEGAL AND PUBLIC NOTICES.

A. D. 1870.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, General, the Comptroller-General, and the Secretary of State, conjointly, General and property newspapers in this State, in Comptroller and by the authortiy of the same, It shall be the duty of the Attorneywhich all legal notices, advertisements, or publications for the State, of General, and any and every character required by law to be made public, shall be State to desigpublished; and further to designate a proper number of newspapers for the several Counties of this State, in which all legal notices, advertisements, or publications, for the County or Counties for which, respectively, each paper shall be designated, of any and every character required by law to be made public, shall be published; and said Attorney-General, Comptroller-General, and Secretary of State, shall have power to make such changes and new designations, from time to time, as they may judge that the public interest requires.

SEC. 2. All State and County officers, and other persons, are hereby required to furnish to the newspapers designated under this Act, for the State and for the respective Counties, for publication, all legal notices, advertisements and publications, of any and every character required by law to be made public; and no legal notice, advertisement or publication required by law to be made public shall have any valid force or effect unless published in the newspaper or newspapers designated under this Act; and no publication, of any character, in any newspaper not designated under this Act, shall be paid for from the funds of this State, or of any County: Provided, That the said officers mentioned in Section one shall have power, in cases requiring unusual publicity, to order publication in such newspapers, in addition to those designated under this Act, as by and with the advice of the Governor they may select; and bills so incurred shall be audited and paid in the usual manner.

State lish in certain papers.

Payment.

Sec. 3. All Acts and parts of Acts inconsistent herewith are hereby repealed.

Sec. 4. This Act shall take effect from and after its passage.

OFFICE SECRETARY OF STATE, COLUMBIA, S. C., February 22, 1870.

The foregoing Act having been presented to the Governor of this State for his approval, and not having been returned by him to the branch of the General Assembly in which it originated within the time prescribed by the Constitution, has become a law without his approval.

(Signed) F. L. CARDOZO, Secretary of State.

AN ACT TO AMEND THE CHARTER OF THE GRANITEVILLE MANUFAC-TURING COMPANY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, No. 245.

and by the authority of the same, That so much of Section first of the charter of the Graniteville Manufacturing Company, ratified on the fifteenth day of December, in the year of our Lord 1845, as fixes the shares at five hundred dollars each be, and the same is hereby, repealed.

Repeal.

SEC. 2. That the Graniteville Manufacturing Company be authorized Amendment, to issue new scrip for the capital stock of the company, in shares of one hundred dollars each, on surrender and cancellation of the old scrip. Approved February 22, 1870.

No. 246. AN ACT to determine the Time when the Salaries of County SCHOOL COMMISSIONERS SHALL COMMENCE, AND TO FIX THE DATE OF THE FIRST MEETING OF THE STATE BOARD OF EDUCATION.

School Commissioners.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the salaries of the several County School Commissioners shall commence on the 1st day of November, A. D. 1869.

Board of Education.

SEC. 2. That the State Board of Education shall hold its first meet-

ing on Wednesday, the 16th day of March, A. D. 1870.

SEC. 3. That all Acts or parts of Acts inconsistent with this Act be, and the same are hereby, repealed.

SEC. 4. That this Act shall take effect immediately.

Approved February 24, 1870.

No. 247. AN ACT TO PROVIDE FOR THE PAYMENT OF CLAIMS OF TEACHERS, FOR SERVICES RENDERED DURING THE FISCAL YEAR COMMENCING NO-VEMBER 1st, A. D. 1868, AND ENDING OCTOBER 31st, A. D. 1869.

pay.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer be, and he is authorized to hereby, authorized and instructed to pay, out of the funds appropriated for the support of free schools, for the fiscal year commencing November 1st, A. D. 1868, and ending October 31st, A. D. 1869, (consisting of fifty thousand (50,000) dollars, in addition to the amount raised by the capitation tax,) the claims of teachers, for services rendered during the year aforesaid, at the rate of five (5) cents per day for each scholar's actual attendance.

blanks.

SEC. 2. That the claims aforesaid shall be made out on printed blanks superintend- to be prepared by the State Superintendent of Education, and furnished out to furnish by him to the County School Commissioner of each of the several Countillarks. ties of this State. He may also prepare and forward to the several County School Commissioners such printed instructions in regard to the said claims as he may deem necessary.

SEC. 3. That each and every claim of the nature aforesaid shall be Claims sworn sworn to and subscribed before a Magistrate or other officer legally qualified to administer oaths.

SEC. 4. That no such claim shall be paid until the same shall have been certified to as correct and just by the School Commissioner of the County in which the services were rendered, and audited by the State Su- er to approve. perintendent of Education, who, if he approve the same, shall draw his order on the State Treasurer for the payment thereof, and shall take receipt for said order, in duplicate, one to be placed on file in his office, and the other to be sent to the office of the Comptroller-General of this State.

A. D. 1870.

Commission-

Superintendent to audit.

Comptroller General to file

Sec. 5. That all claims of teachers for services rendered during the year hereinbefore mentioned shall be forwarded to the office of State Superintendent of Education within ninety (90) days after the approval of this Act.

Time.

SEC. 6. That if any person shall make out or swear to a false or fraudulent claim of the nature hereinbefore described, such person shall, on conviction thereof, be fined in a sum not less than twice the amount of such false or fraudulent claim, which fine shall be applied for the support of schools.

Fraudulent

SEC. 7. That such sum as shall remain of the fund appropriated for the fiscal year commencing November 1st, A. D. 1868, and ending October 31st, A. D. 1869, for the support of free schools, after the payment of the claims described in this Act, shall be applied for the support of free schools for the fiscal year commencing November 1st, A. D. 1869.

Fund un-

Approved February 24, 1870.

AN ACT TO INCORPORATE THE WIDE AWAKE FIRE ENGINE COMPANY, No. 248. AS A PART OF THE FIRE DEPARTMENT OF THE TOWN OF SUMTER.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That B. Spears, H. W. Mack, and their successors in office be, and they are hereby, constituted a body corporate and politic, under the name and style of the "Wide Awake Fire Engine Company," with a capital stock not exceeding the sum of five Capital stock. thousand dollars, with the right to sue and be sued, to plead and be impleaded in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure: Provided, That said corporation shall have all the privileges, and be subject to all the liabilities and restrictions applicable thereto of the Act to regulate the formation of corporations.

Corporators.

Privileges.

SEC. 2. This Act shall be deemed a public Act, and shall remain in force for a term of fourteen years.

Approved February 24, 1870.

AN ACT Authorizing the State Treasurer to Re-issue to Martha H. Pyatt and A. H. Abrahams Certain Certificates of State STOCK LOST OR DESTROYED.

Nc. 249.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General AssemSTATUTES AT LARGE

A. D. 1870.

authority.

bly, and by the authority of the same, That the State Treasurer be, and he is hereby, authorized to re-issue to said A. H. Abrahams, or his as-Treasurer's signee, agent or attorney; also, to Martha H. Pyatt, or her assigns, agent, or attorney, certificates of stock to the same amount, payable at the same time, and bearing the same rate of interest, as those lost or destroyed: Provided, That the said Martha H. Pyatt, her assignees, agent, or attorney, give good and sufficient security in the penal sum of seventeen thousand dollars, and A. H. Abrahams a like bond, in the penal sum of five thousand dollars, to indemnify the State against loss. Approved February 25, 1870.

No. 250. AN ACT TO ALTER AND AMEND THE CHARTER AND EXTEND THE LIMITS OF THE CITY OF COLUMBIA.

Extension.

dermen.

Wards.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the boundaries of the City of Columbia be, and the same are hereby, extended, to embrace on the side of Upper street all the territory included between the said Upper street and a line running parallel to the said Upper street, and distant therefrom nine hundred and fifty-four feet, and on the side of Harden street. to embrace all the territory included between the said Harden street and a line running parallel to the said Harden street, and distant therefrom nine hundred and fifty-four feet.

SEC. 2. That the Mayor and Aldermen of the City of Columbia are Election of hereby required to proceed, immediately upon the passage of this Act, to Mayorand Al- designate, by proper marks and monuments, the boundaries hereinbefore

authorized.

Sec. 3. That an election for Mayor and Aldermen of the said City of Columbia shall be held on the first Tuesday of April, 1870, and on the first Tuesday of April, every two years thereafter.

SEC. 4. Each ward of the City of Columbia shall elect its own Alderman, but the Mayor shall be elected by the majority of voters in the

entire city.

SEC. 5. That the election provided for in this Act shall, in all respects, be carried on in accordance with, and under the provisions of an Act entitled "An Act to provide for the election of the officers of the incorporated cities and towns in the State of South Carolina," approved the twenty-fifth day of September, 1868.

Sec. 6. That all Acts or parts of Acts, inconsistent with the provisions

of this Act, be, and the same are hereby repealed.

Approved February 26, 1870.

AN ACT TO AUTORIZE THE FORMATION OF A COMPANY FOR THE CON-No. 251. STUCTION OF A TURNPIKE ROAD THROUGH OR NEAR SASSAFRAS GAP.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly,

and by the authority of the same, That the formation of a Company, to be known as the Sassafras Turnpike Company, is hereby authorized for the purpose of constructing a turnpike road from the Holly Spring Church, in Pickens County, to the North Carolina line, passing through the intervening mountains at or near Sassafras Gap; which said Company shall be composed of James L. Orr, James W. Harrison and W. H. D. Gaillard, of Anderson County, and W. E. Holcombe, J. E. Hagood, Jackson Gillespie and James Cantrell, of Pickens County, and such other persons as they may associate with them.

SEC. 2. That the said turnpike road, when completed, shall be vested in the said Company for the term of fourteen years: Provided, That the ter. work on said road shall be begun within six months from the passage of this Act, and be completed within two years from the beginning of the

SEC. 3. That from and after the completion of the said Turnpike Road, the said Company shall have the right and power to charge and collect the following rates of toll, to wit: For each carriage or vehicle, for conveying persons, or used by pedlars, drawn by four animals, seventyfive cents; for such carriage or vehicle, drawn by three animals, sixty-two cents; for such carriage or vehicle, drawn by two animals, fifty cents; and for such carriage or vehicle, drawn by one animal, twenty-five cents; for each and every other carriage or vehicle, with four wheels, drawn by six or more animals, seventy-five cents; for such carriage, drawn by five animals, sixty-two cents; for such carriage, drawn by four animals, fifty cents; for such carriage, drawn by three animals, thirty-seven cents; for such carriage, drawn by two or one animal, thirty-seven cents; for every cart drawn by one or two animals, twenty-five cents; for every person on horseback, ten cents; for every horse or mule, led or in a drove, five cents; for every head of cattle in a drove, three cents; for every hog, sheep, or goat, two cents: Provided, always, That each and every person going to or returning from church, an election of a public nature, or to a mill, shall and may pass over said Turnpike Road free of charge.

SEC. 4. That said Company shall enjoy all the privileges, and be subject to all the liabilities and restrictions, so far as applicable, of the Act to

regulate the formation of corporations. Approved February 26, 1870.

AN ACT TO SELL A CERTAIN LOT OF LAND TO THE ZION BAPTIST No. 252. CHURCH, OF COLUMBIA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That upon payment into the Treasury of the State of the sum of ten dollars, the Governor is hereby authorized to transfer the title of a quarter of an acre of land, the property of the State, situated in the City of Columbia, on the corner of Washington and Gadsden Streets, to John Little, Alfred Goodwyn, Stephen Mc- of land, Daniel, Martin Mory and A. Worthy, Deacons of Zion Baptist Church, in the City of Columbia, and their successors in office. The Governor shall appoint some suitable person to lay off said one quarter of an acre son to lay off,

A. D. 1870. Location.

Corporators.

Term of char-

Rate of toll.

Amount.

Description

A. D. 1870. Compensation.

of land, and to define and establish the metes and bounds thereof; the person or persons so appointed to be paid for their services by the purchasers of said lot of land.

Approved February 26, 1870.

No. 253. AN ACT TO GRANT, RENEW AND AMEND THE CHARTERS OF CERTAIN Towns and VILLAGES THEREIN MENTIONED.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same:

Town of Summerville.

Summerville.

That the Act incorporating the town of Summerville be, and the same is hereby, renewed and extended, and the said town shall have and enjoy all the rights, powers and privileges heretofore granted, not conflicting with the Constitution of this State.

SEC. 2. That the fifth Section of an Act to renew and amend the char-Amendment, ters of certain towns and villages heretofore incorporated be so amended as to allow the Councilmen to raise a tax not exceeding one per cent. on a hundred dollars.

Town of Abbeville.

Abbeville.

SEC. 3. That so much of Section second of an Act entitled "An Act to incorporate the Town of Abbeville," passed the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two. as requires the Intendant and Wardens therein mentioned and the electors therefor to be owners of a freehold, be, and the same is hereby, repealed. SEC. 4. That the fifth Section of said Act be, and the same is hereby,

Repeal.

cers.

repealed.

Sec. 5. All officers elected or appointed under said Act shall, in addi-Oath of offi- tion to the oath required to be taken by the officers, respectively, by said Act, be required to take and subscribe to the oath prescribed in the Constitution of the State, as ratified by the people on the 14th, 15th and 16th days of April, 1863.

Town of Camden.

Camden.

SEC. 6. That the second Section of an Act entitled "An Act to alter and amend the charter of the town of Camden," ratified on the fourteenth day of December, A. D. 1866, be, and the same is hereby, repealed.

Village of Walterborough.

SEC. 7. That so much of the second Section of Act incorporating the Walterbovillage of Walterborough, passed on the twentieth day of December, one rough. thousand eight hundred and twenty-six, and renewed by sundry Acts of the General Assembly, as required the Intendant and Wardens to be freeholders within the limits of the said village be, and the same is hereby, repealed.

A. D. 1870.

Town of Sumter.

SEC. 8. That so much of Section 4 of an Act entitled "An Act to renew and amend the charter of the town of Sumter," passed the twentieth day of December, in the year of our Lord one thousand eight hundred and sixty-six, as requires the Intendant and Wardens, provided for in said Act, to be owners of real estate, be, and the same is hereby, repealed.

Sumter.

Repeal.

SEC. 9. That the fifth Section of said Lace so, and Intendant and War-Intendant amended so as to read as follows: "That the said Intendant and War-Intendant Monday in October of every year, at Wardens. SEC. 9. That the fifth Section of said Act be, and the same is hereby, which election all such persons as have hereinbefore been declared to be members of the said corporation shall be entitled to vote. All persons entitled to vote for members of the General Assembly, and who have resided sixty days previous to election within the corporate limits, shall be entitled to vote."

SEC. 10. That the seventh Section of said Act be, and the same is

hereby, amended, so as to read as follows: "The said election shall be

Election

held at some convenient place in the said town, from half-past seven of the clock in the morning until sunset in the afternoon, when the polls shall be closed, and the Managers shall forthwith count the votes, declare the election, and give notice of the result thereof, in writing, to the persons elected. The Intendant and Wardens, for the time being, shall give ten days' public notice of the time and place or places of holding such election, and shall appoint three members of the said corporation as Managers of said election at the place where it may be held, and the said Managers, before they open the polls, shall take an oath fairly and impartially to conduct the said election, and also the oath prescribed by Section thirty of Article two of the Constitution of this State; and any person so appointed as Manager, and refusing to serve, shall be subject to a fine not exceeding twenty dollars, to be imposed by the said Intendant make all necessary ordinances, rules and regulations for the proper, fair nances, &c. and just management and control of coil distributions. and Wardens. And the said Intendant and Wardens are empowed to and just management and control of said elections, and to punish offenders against the same: Provided, That at the first election held after the passage of this Act the Clerk of the Court of Common Pleas for Sumter mon Pleas to County is hereby required to give the notice provided for in this Section.

Time of elec-

Notice.

Managers.

Oath.

Refusal to serve.

SEC. 11. That the Intendant and Wardens, to be elected as above tendant and directed, shall, before they enter upon the duties of their offices, respec- Wardens. tively, take the oath prescribed by the Constitution of this State, as ratified by the people of the State on the 14th, 15th and 16th days of April, A. D. 1868, and also take the following oath, to wit: "As Intendant (or Warden) of the town of Sumter, I will equally and impartially, to the best of my skill and judgment, exercise and discharge the trust reposed

of the time and place or places of holding such election: And provided, further, That at the first election held after the passage of this Act, the

following three members of the said corporation, to wit:

-, shall constitute the Managers thereof."

Clerk.

in me, and will endeavor to carry into effect the purposes for which I have been appointed: So help me God."

SEC. 12. That the twelfth Section of said Act be, and the same is hereby, amended so as to read as follows: "That the said Intendant and Wardens shall have power to elect and have a Clerk and Treasurer, and one or more Marshals for the said town; and they are hereby required to appoint an Inspector of Weights and Measures for the said town; and

Treasurer & Marshals.

Their duties.

the said Intendant and Wardens shall have power to establish the salaries and fees, and prescribe the duties of said officers, and the said officers shall give bond, with sufficient security, in such amount as may be deemed proper, for the faithful discharge of the duties of their respective offices. The said Marshals shall be duly sworn in, and take the oath prescribed by law for State Constables within the corporate limits of said town, in addition to the duties and liabilities specially conferred and imposed upon them by the said Intendant and Wardens; and the officers elected or appointed under the provisions of this Section shall also take the oath prescribed by the Constitution of this State, as ratified by the people of the State on the 14th, 15th and 16th days of April, A. D. 1868, before entering upon the duties of their respective offices."

SEC. 13. That the sixteenth Section of said Act be, and the same is

hereby, repealed.

Taxation.

SEC. 14. That the twenty-second Section of said Act be, and the same is hereby, amended so as to read as follows: "That an Ordinance declaring the rate of annual taxation upon property, and other subjects of annual taxation for the year, shall be published at least three weeks during the month of December in each year, and that all persons liable to taxation under the same, shall make their return on oath, and make payment of their taxes to the Clerk and Treasurer of the said corporation during the succeeding month; and that upon failure to make such return and payment, the parties so in default shall be subject to the penalties now provided by law for failure to pay the general State tax, the said penalty to be enforced by the said Intendant and Wardens for the use of the said town; and that all other taxes imposed by the Intendant and Wardens shall be payable in advance by the parties liable therefor, and that for non-payment of the same the party in default shall be subject to the same penalty as that hereinbefore set forth in relation to annual taxes."

SEC. 15. That the thirty-fourth Section of said Act be, and the same is hereby, repealed.

Town of Walhalla.

Walhalla.

SEC. 16. That the charter of the town of Walhalla, in the County of Oconee, be, and the same is hereby, renewed for the term of fourteen years; and that during such period the said corporation shall be entitled to all the powers and privileges, and be subject to the same conditions as are expressed in the original charter of the said town, except such as do conflict with the Constitution of South Carolina, and the Ordinances of the Convention of 1868.

Town Coup-

Sec. 17. That the charter of the said town of Walhalla be, and the cil to regulate same is hereby, so amended that the Town Council shall have power to regulate sales at auction within the corporate limits of said town, and to

grant licenses to auctioneers and itinerant traders: Provided, That nothing herein contained shall extend to sales by or for Sheriffs, Coroners, Clerks of Courts, Judges of Probate, Executors, Administrators, Assignees, or any other person, under the order of any Court or Magistrate. The said Council shall have power to grant licenses to keepers of hotels, livery stables, ten pin alleys, or other kind of games of hazard, skill or chance, and to levy a tax on all drays, wagons, carriages, omnibuses, buggies and horses kept for hire in the corporate limits of the said town of Walhalla.

SEC. 18. The Town Council shall have power to compel the storage of all powder over and above one keg or twenty-five pounds kept by any powder. merchant or other person in said town, for sale or otherwise, in a magazine built for that purpose, and the owner of such powder shall pay for storage such sum of money on each keg or parcel of twenty-five pounds, or less, as the Council by ordinance shall determine. Any person violating the provisions of this Section shall be liable for each offence to a fine of fifty dollars, to be collected summarily before a Magistrate or Trial Justice, to and for the use of said town, and shall, in addition, forfeit to the said town the powder so illegally kept.

SEC. 19. That the Town Council of the said town shall have power and Streets, lanes, authority, with the consent of the adjacent land-holders, to close all such streets, roads, lanes and alleys within the said town as they may deem necessary, and to lay out, adopt, open and keep in repair all such new streets, roads, lanes and alleys as they may, from time to time, deem important or necessary for the improvement and convenience of said town: Provided, That no new street, road, lane or alley shall be opened without first having obtained the consent of the land-owner or owners through

whose premises any such street, road, lane or alley shall pass. Sec. 20. That the election for Intendant and Wardens for the year eighteen hundred and seventy shall be held on the second Monday in

March.

Town of Winnsborough.

SEC. 21. That Section one of an Act entitled "An Act to incorporate the town of Winnsborough," be, and the same is hereby, amended by striking out the following words in the fourth line, to wit: "or owners of freehold therein." That Section two of the same Act be, and the same is hereby, amended by striking out the word "twelve," in the eighth line, and inserting the word "two" in its stead; by striking out the words "free white," in the eleventh line; by striking out the words "six months," in the twelfth line, and inserting in their stead the words "sixty days;" by striking out all of the thirteenth line, which reads as follows, to wit: "and who shall have paid all taxes and dues of every kind whatsoever;" by striking out the words between "Wardens," on the fourteenth line, and the word "and," on the sixteenth line.

SEC. 22. That Section five of the same Act be, and the same is hereby, amended by striking out all after the word "town," in the second line. That Section eight of the same Act be, and the same is hereby, amended by striking out the word "twenty," in the last line, and inserting the word "fifty" in lieu thereof. That Section nine of the same Act be amended by striking out the words "five dollars or any," in the seventh A. D. 1870.

Licenses, &c.

Storage of

Violation.

Penalty.

roads, &c.

Proviso.

Election.

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A. D. 1870.

line; and by striking out the word "two," in the eighth line, and insert-

ing in lieu thereof the word "five."

SEC. 23. That Section ten of the same be, and the same is hereby, amended by striking out the words "Commissioners in Equity, Ordinary," and inserting in lieu thereof the words "Clerks of Courts, Judge of Probate." That Section twelve of the same be amended by striking out the words "negro houses," in the eighth line.

Town of Edgefield.

Edgefield.

Sec. 24. That all persons, citizens of the United States, who now own, or may hereafter own, dwelling houses in the village of Edgefield, and those who may occupy such dwelling houses under lease, shall be deemed, and are hereby declared, a body politic and corporate, and that the said village shall be called and known by the name of "Edgefield," and its limits shall be held and deemed to extend one mile in every direction

Extension.

from the court house situated therein.

ment.

SEC. 25. And be it further enacted, That the said village shall be Its govern- governed by an Intendant and four Wardens, who shall be elected on the first Monday in March next, on which day, as well as on the second Monday in April in every year thereafter, an election shall be held for an Intendant and four Wardens, who shall always be persons living

Election.

within the limits of said village, at such place as the Intendant and Wardens shall designate, ten days' notice being previously given; and that all the male inhabitants of the said village who shall have attained the age of twenty-one years, and have resided therein sixty days previous to the election, shall be entitled to vote for said Intendant and Wardens, the election to be held from seven (7) o'clock in the morning until six (6) o'clock in the afternoon; and when the polls shall be closed, the

Managers shall proclaim the election, and give notice thereof, in writing,

to the persons elected; and that the Intendant and Wardens, for the time being, shall appoint three (3) Managers to hold the ensuing election:

Provided, That the present Commissioners of Election be empowered to

appoint the Managers for the first election; that the Intendant and Wardens, before entering upon the duties of their offices, shall take the oath prescribed by the Constitution of this State, and also the following oath, to wit: "As Intendant (or Warden) of Edgefield, I will equally and impartially, to the best of my skill and ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace, and to carry into effect, according to law, the purposes of my appointment: So help me God."

Oath of of-

SEC. 26. And be it further enacted, That in case a vacancy shall occur in the office of Intendant or any of the Wardens, by death, resignation, removal from office or absence from the State, an election shall be held by the appointment of the Intendant and Warden or Wardens, as the case may be, ten days' previous notice being given; and in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of themselves to act as Intendant during the time.

Vacancies.

SEC. 27. And be it further enacted, That the Intendant and Wardens, duly elected and qualified, shall, during their term of service, severally and respectively, be vested with all the powers of the Justices of the quo-

Powers.

rum of the State, within the limits of the said village; that the Intendant shall and may, as often as occasion may require, summon the Wardens to meet him in Council, a majority of whom shall constitute a quorum for the transaction of business, and shall be known by the name of "The Town Council of Edgefield;" and they and their successors in office may have a common seal; and shall have power and authority to appoint, from time to time, such and so many proper persons to act as Constables within their jurisdiction, according to law, as they shall deem expedient and proper, which Constables shall have all the powers, privileges and emoluments, and be subject to all duties, penalties and regulations provided by the laws of the State for the office of Constable; and the Intendant and Wardens, in Council, shall have power, under their emoluments, penalties, &c. corporate seal, to ordain and establish all such rules, by-laws and ordinances, respecting the streets, ways, markets and police of said village, as shall appear to them proper for the security, welfare and convenience of said village, and for preserving health, peace, order and good government within the same; and the said Council may affix fines for offences against such by-laws and ordinances, and appropriate the same to the use of the corporation; but no fine shall exceed fifty dollars; and when fines exceed twenty dollars they may be recovered in the Magistrates' Courts for Edgefield County; and when they are of the amount of twenty dollars or under, the same may be recovered before said Intendant and Wardens in Council: Provided, That nothing herein contained shall empower the said Council to ordain or establish any by-laws or ordinances inconsistent with or repugnant to the laws of the land; and all such bylaws and ordinances shall, at all times, be subject to revisal or repeal by the Legislature.

A. D. 1870.

Privileges,

Proviso.

SEC. 28. And be it further enacted, That the said Intendant and Wardens shall have power to abate and remove nuisances within said limits; and in case of disorderly behavior, the Intendant and Wardens, or any of them, upon view thereof, or upon complaint lodged on oath, are hereby required and authorized to issue warrants against all offenders, and cause them to be brought before them or him, and, upon due examination, shall either release, admit to bail, (if the offence be bailable,) or commit to jail, such offender, as the case may require; and the Sheriff of Edgefield County is hereby required to receive and keep the persons so committed until discharged by due course of law; and that the said Intendant and Wardens shall, collectively and severally, have jurisdiction, within the said corporate limits, in all criminal cases, as Trial Justices and quorums have according to law.

Police.

Jurisdiction.

SEC. 29. And be it further enacted, That it shall be the duty of the said Intendant and Wardens to keep all roads, streets and alleys, within &c. the said limits, open and in good repair, and for that purpose they are invested with all the powers granted by law to the County Commissioners, and for neglect of duty they shall be liable to the penalties imposed by law upon County Commissioners for like neglect.

Roads, lanes,

Town of Newberry.

Sec. 30. That all persons, citizens of the United States, who now own, or who may own dwelling houses in the town of Newberry, and those who may occupy such dwelling houses under lease, shall be deemed, and are

Newberry.

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A. D. 1870,

Extension.

hereby declared a body politic and corporate, and that the said town shall be called and known by the name of Newberry, and its limits shall be held and deemed to extend for one mile in every direction from the court house situated therein.

Government.

SEC. 31. And be it further enacted, That the said town shall be governed by an Intendant and four Wardens, who shall be elected on the first Tuesday in November every year, and said Intendant and Wardens shall always be persons living within the limits of said town, and there Election of shall be an election held always at such place as the Intendant and Wardens shall designate, ten days' notice being previously given, and that all the male inhabitants of the said town, who have attained the age of twentyone years, and have resided therein sixty days previous to the election, shall be entitled to vote for said Intendant and Wardens, the election to be held from seven o'clock in the morning until six o'clock in the afternoon, and when the polls shall be closed the Managers shall proclaim the

Managers.

election, and give notice thereof in writing to the persons elected; and that the Intendant and Wardens for the time being shall appoint three Managers to hold the ensuing election; that the Intendant and Wardens, before entering upon the duties of their office, shall take the oath prescribed by the Constitution of the State, and also the following oath, to wit: "As Intendant (or Warden) of the town of Newberry, I will equally and impartially, to the best of my skill and ability, exercise the trust conferred upon me, and will use my best endeavor to preserve the peace, and to carry into effect, according to law, the purpose of my ap-So help me God." pointment.

Vacancy.

SEC. 32. And be it further enacted, That in case of a vacancy in the office of Intendant, or any of the Wardens, by death, resignation, removal from office, or absence from the State, an election shall be held by the appointment of the Intendant or Wardens, as the case may be; and · that said Intendant shall give ten days' previous notice of such election, and in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of themselves to act as Intendant during the time.

Powers officers.

SEC. 33. And be it enacted, That the Intendant and Wardens duly elected and qualified shall, during their term of service, severally and respectively, be vested with all the powers of the Justice of the Peace of the State, within the limits of the said town; that the Intendant shall and may, as often as occasion may require, summon the Wardens to meet him in Council, a majority of whom shall constitute a quorum for the transaction of business, and shall be known by the name of "The Town Council of Newberry;" and they and their successors in office may have a common seal, and shall have power and authority to appoint, from time to time, such and so many proper persons to act as Constables within their jurisdiction, according to law, as they shall deem expedient and proper, which Constables shall have all the powers, privileges and emoluments, and be subject to all duties, penalties and regulations provided by the laws of the State for the office of Constable; and the Intendant and Wardens in Council shall have power, under their corporate seal, to ordain and establish all such rules, by-laws and ordinances respecting the streets, ways, markets and police of said town as shall appear to them best for the preservation of peace and welfare of the town; and the said Council shall affix fines for offences against such by-laws and or-

Police.

dinances, and appropriate the same to the use of the corporation, but no fine shall exceed fifty dollars, and when fines exceed twenty dollars they may be recovered in a Magistrate's Court for Newberry County, and when they are of the amount of twenty dollars or under they may be recovered before said Intendant and Wardens in Council: Provided, That nothing herein contained shall empower the said Council to ordain or establish any by-laws or ordinances inconsistent with or repugnant to the laws of the land; and all such by-laws and ordinances shall, at all times, be subject to revisal or repeal by the Legislature.

A. D. 1870.

Proviso.

Jurisdiction.

Bail.

SEC. 34. And be it further enacted, That the said Intendant and Wardens shall have power to abate and remove nuisances within the said limits, and in case of disorderly behavior the Intendant and Wardens, or any one of them, upon view thereof, or upon complaint lodged on oath, are hereby required and authorized to issue warrants against all offenders, and cause them to be brought before them or him, and upon due examination, shall either release, admit to bail, if the offence be bailable, or commit to jail such offender, as the case may require; and the Sheriff of Newberry County is hereby required to receive and keep persons so committed, until discharged by due course of law; and that the said Intendant and Wardens shall collectively and severally have jurisdiction within the said corporate limits in all criminal cases as Trial Justices have according to law.

SEC. 35. That it shall be the duty of the said Intendant and Wardens to keep all roads, streets and alleys within the said limits open and in good repair, and for that purpose they are invested with all the powers granted by law to the County Commissioners, and for neglect of duty they shall be liable to the penalties imposed by law on County Commis-

sioners for like neglect.

Village of West Union.

SEC. 36. That the persons residing within a radius of half a mile from the "West Union Depot," are hereby created a body corporate under the name of the village of "West Union."

SEC. 37. That the officers of the said village shall be the same in number, and have the like qualifications, and powers and privileges which are granted to other towns and villages incorporated in this State.

West Union.

Lancaster.

SEC. 38. That the charter of the village of Lancaster, hitherto granted, is hereby renewed for the period of fourteen years from the passage of this Act, and during such period the said corporation shall have all the powers and privileges, and be subject to all the limitations and restrictions as are set forth in the said charter: Provided, That the charter of said charter. corporation, and this renewal thereof, shall be subject to the Constitution and Ordinances of the Convention of 1868.

Lancaster.

Renewal of

Rock Hill.

SEC. 39. That the persons residing within the area of a square, each side whereof is one mile, and the centre whereof is "Gordon's Hotel," in

Rock Hill.

Chartered.

the County of York, are hereby created a body corporate under the name of the village of Rock Hill, with the officers the same in number, and having the same powers and privileges, and subject in every respect to the provisions of the charter granted to the village of Cokesbury by the Act of 1852, except wherein said charter may be inconsistent with the Constitution and Ordinances of 1868.

SEC. 40. That this Act shall be taken and deemed a public Act in all Courts of Justice, and shall continue in force for ten years, and until the

end of the next session of the General Assembly thereafter.

SEC. 41. That all Acts, and parts of Acts, inconsistent with this Act. be, and the same are hereby, repealed.

Approved February 26, 1870.

AN ACT TO CHARTER THE MANCHESTER AND AUGUSTA RAILROAD No. 254. COMPANY.

Purpose.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That for the purpose of establishing a railroad from some point on the Wilmington and Manchester Railroad between the towns of Sumter and Manchester and the town of Hamburg, or some point near that place, a corporate Company is hereby authorized, to be called the Manchester and Augusta Railroad Company, which Company, when formed in compliance with the conditions herein prescribed, shall have corporate existence as a body politic in perpetuity.

SEC. 2. That the said Company be, and is hereby, authorized to construct a railroad from some point on the Wilmington and Manchester

Railroad to the town of Hamburg, or near that place. Sec. 3. That for the purpose of raising the necessary capital stock of

Authority to construct.

Commissioners of sub-scription.

said Company, it shall be lawful to open books in the town of Sumter, under the direction of John T. Green, F. J. Moses, Jr., J. S. Richardson, Jr., M. B. Allen, Joseph Smith and Wm. Gowan; at Florence, under the direction of E. W. Charles, J. Eli Gregg, D. C. Milling, T. D. McDowell, C. A. Sherman and A. W. Thayer; at Marion Court House, under the direction of W. W. Harllee, William Evans and W. S. Mullins; and at any other place or places in South Carolina by any three of

the aforesaid Commissioners, for the purpose of receiving subscriptions to an amount not exceeding five millions of dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of constructing and carrying into operation the aforesaid railroad or any Place where part thereof. The time and place for receiving subscriptions shall be subscription to be received fixed by a majority of the Commissioners at Sumter Court House; and if they fail, then by any of the three Commissioners hereinbefore named.

having advertised for thirty days in any newspaper or newspapers in the State; and the books shall be kept open for thirty days at each of the

places where they shall be opened. That on each share of stock subscribed, the subscriber shall pay two dollars to the Commissioners, who shall deposit the same in some national bank. When one hundred thousand dollars are subscribed, the said Commissioners, or any three of them,

Shares.

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shall give notice of the time and place of meeting for organization in some public newspaper.

A. D. 1870.

SEC. 4. Whenever the said sum of one hundred thousand dollars is subscribed, the subscribers, their executors, administrators, or assigns, scription shall be, and they are hereby, declared to be incorporated into a Com-dition of subpany, and shall have all the rights and privileges conferred upon the scription. Northeastern Railroad Company, according to their original charter, each subscriber being entitled to one vote for each share of stock; which said charter was ratified on the sixteenth day of December, in the year of our Lord one thousand eight hundred and fifty-one: Provided, That nothing herein contained shall be construed so as to exempt the said Company from the payment of taxes.

#100,000 sub-

Proviso.

SEC. 5. The said Company shall have the right to build bridges across navigable rivers: Provided, They shall put in good and sufficient draws, bridges. and shall construct necessary stations and turn-outs, with one or more tracks to the road, with such gauge as may be considered best, and may co-operate or consolidate with such road or roads as may be chartered by the State of Georgia, forming but one corporation, at their discretion: Provided, That said road shall be subject to the provisions of an Act entitled "An Act to declare the manner by which the lands, or the right viso. of way over the lands, of persons or corporations may be taken for the construction and uses of railways and other works of internal improvement," ratified the twenty-second day of September, 1868.

To build

Proviso.

Further pro-

SEC. 6. That this Act shall be deemed a public Act, and continue in force for twenty-one years.

Approved February 26, 1870.

No. 255.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CHARLESTON BOARD OF TRADE."

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the second Section of the Act of the General Assembly, ratified the nineteenth day of December, Anno Domini 1866, be, and the same is hereby, amended, so as to read as follows: That the said Charleston Board of Trade shall be entitled to hold and possess property to an amount not exceeding fifty thousand dollars.

Amendment.

Approved February 28, 1870.

No. 256.

AN ACT TO ESTABLISH A FERRY ACROSS THE WACCAMAW RIVER, IN HORRY COUNTY, AND TO VEST THE SAME IN JOHN J. REAVES, HIS HEIRS AND ASSIGNS.

Establishing

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That a public ferry be, and is hereby, ferry. established and chartered, to reach and extend across the Waccamaw River, in Horry County, at a point called "Oliver Landing;" and that the said ferry be vested in John J. Reaves, his heirs and assigns, for the

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A. D. 1870.

Rates of toll.

Proviso.

term of seven years, and that the following rates of toll be charged and collected, and no more: For every four-horse carriage or vehicle, one dollar; for every two-horse carriage or vehicle, seventy-five cents; for every one-horse carriage or vehicle, twenty-five cents; for every single horse and rider, five cents; for each foot person, four cents; for each head of sheep, goats and hogs, two cents: Provided, That children going to and coming from school, and voters going to and returning from elections, be passed free of charge.

Approved February 28, 1870.

No. 257. AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO PRO-VIDE FOR THE ASSESSMENT AND TAXATION OF PROPERTY."

Amendments

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act to provide for the assessment and taxation of property, passed September 15th, 1868, be, and it is hereby, amended as follows: Strike out from Section 63 the words "first Monday of December," and insert the words "last Monday in October;" strike out from Section 66 of said Act, the words "third Monday of December," and insert the words "third Monday of November;" strike out from Section 67 the words "fourth Monday of December." and insert the words "first Monday of December;" strike out from Section 68 the words "second Monday of December," and insert the words "first Monday of November;" strike out from Section 69 the words "first Monday of December," and insert the words "first Monday of November;" strike out from Section 72 the words "first day of January," and insert the words "twentieth day of December;" strike out from Section 92 the words "first Tuesday of May," and insert the words "third Tuesday of May."

Sec. 2. That Section 139 of the aforesaid Act be amended by inserting after the word "Auditor," where it first occurs on the fifth line of the Section, in the printed Act, the words "approved by the County Commis-

sioners."

of taxes.

SEC. 3. Be it further enacted, That in all cases where the penalty Non-payment for non-payment of taxes has attached to property held by Assignees in Bankruptcy, and which could not, or cannot, be sold before the time at which taxes become due; and in all cases where sales of property for the settlement of estates ordered by any Court in this State have not been, and cannot, for want of time, be made in season for the payment of taxes due thereon, the State Auditor, upon proper evidence that the State Auditaxes due upon such poperty have not been, and cannot be paid, until a sale of said propety is made, may remit the penalty which by law attaches for non-payment of taxes.

penalty.

Proviso.

SEC. 4. The Treasurer of Charleston County is hereby authorized to Treasurer of appoint three Deputies, whose duty it shall be to assist in the collection appoint depu- of taxes in said County. Said Deputies shall each receive as compensation ties. for their services the same commissions as are paid for the collection of taxes to the County Treasurer: Provided, That the total amount paid to each Deputy, in any current year, shall not exceed the sum of five hundred dollars: And provided, further, That the duties of said Deputies shall be confined to the collection of the simple taxes, and shall not include the collection of taxes with penalties attached. Said Deputies Duties of Deshall give such bond for the faithful performance of their duties as said puties. County Treasurer shall require.

A. D. 1870.

SEC. 5. The collection of taxes shall not be stayed or prevented by any Collection not injunction, writ or order issued by any court or officer, except as provi-junction, &c. ded for in this Act, and in the Act to provide for the assessment and

taxation of property aforesaid.

SEC. 6. Whenever any person, or persons, charged with taxes upon the Illegal and erroneous taxabooks of any Tax Collector in this State, shall state, in writing, to said Coltion. lector that he, or they, have been erroneously or illegally charged with the same, said Collector shall submit to the County Auditor a full statement of the facts in the case, which statement shall be forwarded to the State statement by Auditor, with such additional information, relating thereto, as the said county Auditor to State County Auditor may be able to give; and said Tax Collector shall not Auditor. be required to proceed against the party or parties so claiming to have been erroneously or illegally charged with taxes, by distress or otherwise, not to proceed until the State Auditor shall, in writing, direct him so to do.

SEC. 7. In any action or proceeding against any Tax Collector in this State, for the purpose of recovering any property or money alleged to collector. have been erroneously or illegally assessed and collected, the party bringing such action or proceeding shall make it appear that a notice in writing of the claim on which such suit may be brought was given to said Tax Collector in pursuance of the sixth (6th) Section of this Act; and unless it shall be made to appear that said Collector has proceeded, contrary to the provisions of this Act, the amount recovered in such suit shall not exceed the value of the property or money aforesaid.

SEC. 8. It shall be the duty of the Attorney-General of the State to Attorney Gendefend any suit or proceeding against any Tax Collector, or other officer, eral to defend

Proceedings

who shall be sued for moneys collected, or property levied on, or sold on account of any tax, when the State Auditor shall have ordered such Collector to proceed in the collection of any such tax, after notice as aforesaid, or suit brought; and any judgment against such Collector or other officer, finally recovered, shall be paid in the manner provided in Section 81 of the Act to provide for the assessment and taxation of property aforesaid.

SEC. 9. All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Judgment.

Approved February 28, 1870.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AUTHORIZE THE SALE OF THE COLUMBIA CANAL."

No. 258.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the first Section of an Act entitled "An Act to authorize the sale of the Columbia Canal," approved 21st September, 1868, be amended so as to read as follows: His Excellency the Governor, C. H. Balwin and Charles M. Wilder, are hereby

Commission.

constituted a commission to sell and convey the right, title and interest of the State in the Columbia Canal, and in all the lands, privileges and appurtenances owned by the State thereunto belonging or appertaining, subject to the following conditions, (in addition to such other conditions as the said Commission, in its discretion, may impose, which conditions

Stipulations.

shall be published in the advertisement,) to wit: That the purchaser or purchasers, his or their heirs, assigns or successors, shall, within two years from the first day of March, 1870, complete the widening and deepening of the said Canal to at least twice its original capacity; that the same shall always be kept open, and in proper order for boating purposes, (free of all Restrictions. charges for toll or otherwise,) as far as the same is now used; that the waters of said Canal shall not be allowed to become stagnant; that the same shall not be used for other than hydraulic purposes; and upon the further condition that the work of widening and deepening the said Canal

> shall be commenced on or before said first day of March, 1870; and the sum of ten thousand dollars shall be expended on the same within twelve months from the said first day of March, 1870; and that the title to the

> Canal shall revert to the State on default being made in any of the con-

Default.

Deed of conveyance of the said Canal, heretofore exveyance filed chaser or owner of the said property shall file with the Canal chaser or owner of the said property shall file with the Canal chaser or owner of the said property shall file with the Canal chase or owner of the said property shall file with the Canal chase or owner of the said property shall file with the Canal chase or owner of the said property shall file with the Canal chase or owner of the said Canal, heretofore extends on the said Canal chase of the said Canal ditions so imposed. and with the Clerk of the Court of Common Pleas for Richland County, his written assent, under his hand and seal, to the conditions expressed in this Act.

of State,

Approved February 28, 1870.

No. 259. AN ACT AUTHORIZING THE STATE TREASURER TO RE-ISSUE TO RICH-ARD P. BUCK A CERTAIN CERTIFICATE OF STATE STOCK, LOST OR DESTROYED.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer is Treasurer auto hereby authorized to re-issue to Richard P. Buck a new certificate of State stock, of the same tenor and date as the one purported to be lost or destroyed, in the sum of ten thousand dollars; and that the said Richard P. Buck is hereby required to deposit with the State Treasurer a bond legally executed in the penal sum of twenty thousand dollars, to indemnify the State against loss. Approved February 28, 1870.

CEASED, A TRACT OF ESCHEATED LAND IN THE COUNTY OF SUMTER.

AN ACT RESTORING TO THE FAMILY OF ISAAC HAITHCOCK, DE-

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That a certain tract of land in the

No. 260.

thorized re-issue.

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County of Sumter, containing one hundred acres, more or less, and bounded by lands now, or lately, owned by G. W. Lee, T. D. Foxworth, and estate of John A. Colclough, deceased, and situate about eight miles, more or less, from the town of Sumter, which said tract of land was the property of Isaac Haithcock, a free person of color, who died in the said County in the year eighteen hundred and fifty-six (and was, at the time of his death, seized and possessed of said tract of land, which said tract was escheated at the Spring Term of the Court of Common Pleas for Sumter County, in 1858, because the deceased left no lawful heirs, as his wife, Charlotte, now dead, was a slave, and his and her children, following the condition of the mother, were slaves, and, therefore, by the then laws of South Carolina, could not inherit,) be, and the same is hereby, granted and conferred upon Hampton Haithcock, of said County, in trust, for the children of Isaac Haithcock, deceased, by his wife, Charlotte, also deceased, to wit: Harrington, Allen, Cely, Emily, Henrietta and Elsy Haithcock, or such of them as may survive, and their heirs forever.

SEC. 2. That Hampton Haithcock, the trustee aforesaid, shall have, and is hereby invested with full power and authority to sell, bargain, and convey, or partition the said land for the benefit of the said children of Isaac Haithcock, deceased, share and share alike of the land, or proceeds of its sale, whenever the said children, or such portion of them as survive, may unite and agree in requesting him so to do; and, until such division, the said land shall be a homestead for the said Hampton Haithcock, uncle of said children, and such of the said children as may desire to

to live on the same.

Approved February 28, 1870.

A. D. 1870.

Grantee.

Powers of

AN ACT TO PROVIDE FOR THE CARE OF THE POOR.

No. 261.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, It shall be the duty of the County Commissioners of each County in this State, in pursuance of the authority missioners. conferred upon them in Section 14 of an Act entitled "An Act to define the jurisdiction and duties of County Commissioners," passed the twentysixth day of September, 1868, to provide, as soon as practicable after the passage of this Act, in their County, such buildings as may be needed for the accommodation of the poor of said County; said buildings shall tion. have connected with them sufficient tillable land to give employment to such persons, able to work, as may come upon the County for support; and said buildings and land shall be known as the Poor House and Farm of said County.

SEC. 2. The County Commissioners shall, until otherwise provided by law, be Overseers of the County Poor House and Farm, and shall have power and authority to make all necessary rules and regulations for the government of the same, and to appoint a Superintendent, with such assistants as may be needed. They shall also have the power, and it shall be their duty, to provide such employments as will be best suited to duties. the inmates of the Poor House; and to see that every such poor person, able to work, is employed at some kind of labor; and to dispose of all

County Com-

Accommoda-

Overseers.

Powers and

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A. D. 1870.

Proviso.

articles manufactured, and all produce raised on said farm, in such manner as may be most profitable: Provided, That the proceeds accruing from sales of produce, from rents or other sources, shall be faithfully appropriated to the support of the poor in said County: And provided, further, That no unusual or cruel punishment shall ever be allowed in any poor house in this State.

ments.

Sec. 3. Legal settlements may be acquired in any County, so as to Legal settle- oblige such County to relieve and support the persons acquiring the same, in case they are poor and stand in need of relief, in the manner following, namely:

Married women.

1st. A married woman shall follow and have the settlement of her husband, if he has any within the State; otherwise, her own at the time of marriage, if she then had any, shall not be lost or suspended by the marriage.

Legitimate children.

2d. Legitimate children shall follow and have the settlement of their father, if he has any within the State, until they gain a settlement of their own; but if he has none they shall, in like manner, follow and have the settlement of their mother, if she has any.

Illegitimate children.

3d. Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she then has any within the State; but neither legitimate or illegitimate children shall gain a settlement by birth in the County where they may be born, if neither of their parents then has a settlement therein.

Persons twenof age.

4th. Any person of the age of twenty-one years, being a citizen of this ty-one years or any other of the United States, who has lived for three successive years in any County, and who has during that time maintained himself and family, shall be held to have acquired a legal settlement therein.

Overseers.

SEC. 4. It shall be the duty of the County Commissioners of each County in this State to appoint, annually, one or more persons who shall Duties of be known as the Overseers of the Poor in the County. It shall be the duty of said Overseers to look after and care for the indigent, old and infirm, and all other destitute persons within the limits of the County, and said Overseers shall have authority to send any poor person who may become a charge upon the County, to the County Poor House, subject to such conditions as may be established by the County Commissioners.

Neglect.

Sec. 5. If the Overseers of the Poor of any County shall refuse or neglect to provide for any poor person who shall ask for relief, or who shall be reported to them as needing and entitled to receive relief, it shall be the duty of the County Commissioners of said County, and they shall have the power, after investigation, either upon the complaint of the person asking relief, or upon the complaint of any resident of said County, to commit such poor person to the County Poor House.

&c.

SEC. 6. The Overseers of the Poor, in their respective cities or Counties, Poor of othe shall provide for the immediate comfort and relief of all persons residing Counties, or found therein, having lawful settlements in other places, when they fall into distress and stand in need of immediate relief, and until they are removed to the city or County of their lawful settlement; the expenses whereof, incurred within three months next before notice is given to the place to be charged, as also of their removal, or burial, in case of their death, may be recovered by the city or County incurring the same,

against city or County liable therefor in an action at law, to be instituted within two years after the cause of action arises, but not otherwise.

A. D. 187 .

SEC. 7. The Overseers of the Poor of any city or County may send a written notification, stating the facts relating to any person actually become chargeable thereto, to one or more of the Overseers of the city or County where his settlement is supposed to be, and requesting them to remove him, which they may do by a written order directed to any person

Notification.

therein designated, who may execute the same.

Removal of

Notification

how sent

SEC. 8. If such removal is not effected by the last mentioned Overseers within one month after receiving the notice, they shall, within the Counties, &c. said one month, send to one or more of the Overseers, requesting such removal, a written answer, signed by one or more of them, stating therein their objections to the removal; and if they fail to do so, the Overseers who requested the removal may cause the pauper to be removed to the city or County of his supposed settlement, by a written order, directed to any person therein designated, who may execute the same; and the Overseers of the city or County to which the pauper is so sent shall receive and provide for him; and such city or County shall be liable for the expenses of his support and removal, to be recovered in an action by the city or County incurring the same, and shall be barred from contesting the same question of settlement with the Plaintiff in such action.

SEC. 9. The notification and answer mentioned in the two preceding Sections may be sent by mail; and such notification or answer, directed to the Overseer of the Poor of the city or County intended to be so notified or answered, postage prepaid, shall be deemed a sufficient notice or answer, and shall be considered as delivered to the Overseer to whom it was directed at the time when it is received at the post office of the city or County to which it is directed, and in which the Overseer resides:

Provided, That said letter of notification be registered.

SEC. 10. Whoever brings into and leaves any poor and indigent person in any city or County in this State, wherein such pauper is not lawfully settled, knowing him to be poor and indigent, and with the intent to charge such city or County with his relief or support, shall forfeit a sum not exceeding one hundred dollars for each offence, to be recovered in any proper action, to the use of such city or County.

SEC. 11. The County Commissioners shall have the power, if the convenience or necessities of their County demands it, to establish additional ment of addipoor farms in said County: Provided, That when such additional poor farms. farms are established, they shall be located in portions of said County

where they will be most convenient to the people at large.

SEC. 12. The city authorities of Charleston and Columbia shall be allowed, and it shall be their duty, to provide for the care of the poor and columbia within the limits of their respective cities; and the County Commissioners of Charleston and Richland Counties shall, when they levy a general poor tax for said Counties, except from the payment of the same the said cities of Charleston and Columbia: Provided, That the aforesaid authorities of the cities of Charleston and Columbia shall have made adequate provision for the support of their poor.

SEC. 13. The Overseers of the Poor of each City and County in this State shall, on or before the fifteenth day of October of each year, make make returns and return to the Secretary of State a statement of the paupers in of state. each City or County as they were during the year ending the thirtieth

Establish-

Charleston

Overseer to

Nature

day of September preceding, which return shall contain true and correct answers to the following inquiries: What number of persons have been relieved or supported by your County (or City) during the year ending Sepof tember 30th? Of those, how many have a legal settlement in your County or city? How many are foreign born? How many colored? How many white? How many of your insane do you support in the State Lunatic Asylum? Have you a poor house? What number of acres of land is attached to your poor house? What is the present estimated value of your poor house establishment? Real estate? Personal? What number of persons have been supported in your poor house during the whole or any part of the year? What is the average number supported in the poor What is the average weekly cost of supporting each pauper in the poor house? What number of persons have been inmates of your poor house who are unable to perform any kind or amount of labor? What is the estimated value of all the labor performed by the poor in your poor house? What was the kind and quantity of crops raised on the poor farms? The value of that sold? The estimated value of that retained for use on the farm? How many persons, including their families, have you supported out of the poor house during the whole or a portion of the year? What is the average weekly cost of supporting each pauper out of the poor house? How many have you aided out of the poor house? How many have you relieved or supported who were insane? How many who were idiots? What number of your poor, supported at the public charge, have been made dependent by intemperance in them-What number by intemperance in those who ought to have been their supporters? What is the total net cost of (supporting or) relieving the poor in your County or City during the year, including interest on your poor house establishment? How many are supported in your poor house at the present time? How many are supported out of the poor house at the present time? How many are assisted out of the poor house at the present time? They shall, at the same time, make correct returns of all children in such County or City, under fourteen years of age, who are supported at the public charge, specifying therein the name, age, sex and color of each. And the Secretary of State shall furnish County Commissioners of every County and the Overseers of the Poor of each City in the State with blank forms of returns, which shall contain, in substance, the foregoing interrogatories.

Poor dren.

Secretary of State to make abstract of re-

Pickens.

SEC. 14. The Secretary of State shall, on or before the fourth Tuesday in November of each year, make out an abstract of the returns made to turns to Gen- him, together with such explanatory remarks as he deems proper, and, through the Governor of the State, transmit the same to the Legislature.

SEC. 15. The County Commissioners of the Counties of Oconee and Oconee and Pickens, comprising the Territory formerly known as Pickens District, are authorized, after due notice by advertisements, to sell at public sale the old Poor House farm of that District, and are empowered to execute the title to the purchaser. The proceeds of said sale shall be divided equally between the Commissioners of the two Counties, and be applied by them to the support of the poor.

SEC. 16. All Acts or parts of Acts inconsistent with, or supplied by, this Act are hereby repealed.

Approved February 28, 1870.

AN ACT TO RE-CHARTER RANTOWLE'S BRIDGE.

A. D. 1870,

No. 262.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Rantowle's Bridge, over the Stono River, in St. Paul's Parish, Colleton County, be, and the same is hereby, re-chartered, and vested in Elizabeth S. Messervey, wife of Laurence J. Messervey, and the heirs of her body, not to be subject to the debts, contracts or engagements of her husband, for the term of fourteen years, with the same rate of toll heretofore allowed by law: Provided, That voters going to and from the polls on election day, children going to and from school, and militiamen going to and from either regimental or company musters, shall be passed free of tollage: Provided, further, That this charter shall be subject to the conditions, modifications or repeal, made by the General Assembly at any time.

Term.

Proviso.

Approved February 28, 1870.

AN ACT TO LIMIT THE COST OF CRIMINAL PROSECUTIONS.

No. 263.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That in no case shall the fees of more than three witnesses be taxed against the State in the examination Magistrates' fees-how paid of criminal cases, before Trial Justices' or Magistrates' Courts, unless their materiality and importance shall first be certified to by the Solicitor for the Circuit in which the examination shall take place.

Sec. 2. No Trial Justice or Magistrate shall be paid fees for binding over more than three witnesses, in any one criminal case, to appear before the Court of General Sessions, unless the Solicitor for the Circuit shall certify their materiality and importance.

Approved February 28, 1870.

AN ACT TO Provide for the Formation of Religious, Charitable AND EDUCATIONAL ASSOCIATIONS.

No. 264.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, Seven or more persons, within this State, having associated themselves, by agreement in writing, for educational, charitable, or religious purposes, under any name by them assumed, and complying with the provisions of this Act, shall, with their successors, be, and remain, a body politic and corporate.

Agreement.

To state pur-

SEC. 2. The purpose of such corporation, and the place within which it is established or located, shall be distinctly specified in its articles of pose & place. association, which articles, and all amendments thereto, shall be recorded in the office of the Register of Deeds for the County wherein such place with Register is situated, and such corporation shall appropriate its funds to no other of Deeds. purpose.

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A. D. 1870. Powers, priv-ileges, &c.

SEC. 3. Corporations organized under this Act shall have the powers, privileges, and be subject to the duties, liabilities and restrictions set forth in the Act to provide for the formation of corporations, so far as the same may be applicable.

Property.

SEC. 4. Such corporations may hold real and personal estate, necessary for the purposes of their organization, to an amount not exceeding one hundred thousand dollars.

Taxation.

SEC. 5. Their estate shall not be exempted from taxation in any case where part of the income or profits of their business is divided among members or stockholders, or where any portion of such estate is used or appropriated for other than educational, charitable or religious purposes. Approved February 28, 1870.

AN ACT TO PROVIDE FOR THE FILLING OF VACANCIES IN COUNTY No. 265. OFFICES.

Governor auoppoint.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, to and by the authority of the same, That from and after the passage of this Act, in the event that a vacancy shall at any time occur in any of the offices in any County of this State, whether from death, resignation, disqualification, or other cause, the Governor shall have full power to appoint some suitable person, who, upon duly qualifying according to law, Term of omce shall be entitled to enter upon and hold the office to which he has been appointed for the unexpired term of the former incumbent, and shall be

term for which an appointment is made shall, in any case, exceed one

subject to all of the duties and liabilities incident to said officer, during the term of his service in said office: Provided, That no such unexpired

> year. Approved February 28, 1870.

AN ACT TO INCORPORATE THE CHARLESTON BANKING AND TRUST No. 266. COMPANY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Robert Benson, Charles Corporators. Bush, C. C. Leary, John Berry, D. D. Leary, and such other persons as may hereafter be associated with them, and their successors and assigns, are hereby constituted a body corporate, under the name of the Charleston Banking and Trust Company, and by that name shall have succession, and may sue or be sued in any Court whatever, with such powers and privileges as are hereinafter provided.

SEC. 2. That the capital stock of said Company shall not exceed two Capital stock. million (2,000,000) dollars, divided into shares of one hundred (100) dollars each; but when \$100,000 thereof shall have been actually subscribed and paid in, in cash, the said Company may organize and proceed to business under this Act.

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SEC. 3. That the said Company shall have power to make advances to Planters for the purpose of developing the Agricultural interests of the State, upon loans, mortgages, or part interest in the crops to be raised, to receive deposits of money and other valuables, and issue receipts for the same, to buy and sell bonds, bills of exchange and promissory notes, and advance and loan moneys, securities and credits, and may charge and receive, in addition to interest, such a commission on advances of money and negotiating loans as may be agreed upon between said Company and the party or parties buying or selling such bonds, bills of exchange and promissory notes, or borrowing or receiving such moneys, securities or credits; and such commissions or interest may be made payable in money, or in a share of the products or profits of the property given or pledged as security for such loan and advances, or partly in money and partly in a share of such products or profits, without creating any partnership or joint liability between said Company and said party or parties; and the said Company shall have power to take and hold as security for, or in payment of, any loans or advances made, mortgages or other instruments, or obligations upon or affecting real, personal or mixed property, and may and other incancel or assign the same; and said Company shall have power to purchase, hold, sell, exchange and convey lands, or other property, of any nature, and may execute and issue all such receipts, certificates, contracts or other instruments, as may be necessary for the transaction of its busi-Said Company may, at their discretion, guarantee the payment of the principal or interest, or both, on any notes, bonds, bills of exchange, or other evidence of individuals or bodies corporate, and may receive such compensation therefor as may be agreed upon between the parties.

SEC. 4. That the said Company shall have power to receive moneys in trust or on deposit, and to invest or accumulate the same at such rate of trust or on deinterest as may be agreed on, or to allow such interest thereon as may be posit. agreed on; shall have power to accept and execute all such trusts of every description as may be committed to them by any person or persons whomsoever, or any corporation, or may be committed or transferred to them by order of any Court; and shall have power to take and accept by grant, assignment, transfer, devise, or bequest, and hold any real or personal estate on trust created in accordance with the laws of this State, and execute in such legal trusts in regard to the same, on such terms as may

be declared established or agreed upon in regard thereto.

SEC. 5. That the business and corporate powers of said Company shall be exercised by a Board of not less than five Directors, who shall elect Board of Directors—quofrom their number a President, and may declare by by-laws what number rum.

of Directors shall be a quorum for the transaction of business. SEC. 6. That Robert Benson, Charles Bush, C. C. Leary, John Berry, D. D. Leary, named in the first Section of this Act, or any two or more of them, shall be, and they are hereby, appointed Commissioners, to open subscriptions books for subscription to the capital stock of said Company, at such times and places, and for such amounts as they, or a majority of them, shall deem proper, but for no less amount of subscription than one hundred The Directors of thousand (100,000) dollars, as hereinbefore provided. said Company shall be elected by a majority in interest of the stockholders of said Company voting at an election to be held under the inspection of said Commissioners, at such place as they may designate, within twenty days from the closing of the subscription called for by them, and

A. D. 1870.

Issue bonds,

Loans.

Mortgages

Moneys in

Commission-

Amount.

Election of

on the first Monday in February in every year thereafter; and if there should be no election of Directors at any annual meeting, as hereinbefore directed, the Directors then in office shall continue until the next election, in which the majority of the stock shall be represented.

Principal office.

SEC. 7. That the principal office of this Company shall be located in the city of Charleston; that the Board of Directors shall have power to establish agencies for the transaction of the business of said Company, at any place they may think proper, and to appoint all such agents, officers or employees as may be considered necessary, and may delegate power to transact any of its business to Committees or Directors, or to its officers or agents, as it shall deem proper; and said Board of Directors may, by

By-laws.

Agencies.

a majority of their whole number, make such by-laws as may be deemed necessary for the management of the property, the government of the officers, and the regulation and conduct of the affairs of said Company; and

SEC. 8. That the minutes of the proceedings of the Board of Directors

may adopt a corporate seal, and change the same at pleasure.

Proceedings recorded.

shall be kept, and the same shall be entered in a book for that purpose, and signed by the President, or acting Chairman or Secretary. holders shall be entitled to certificates of their respective shares of capital Shares trans- stock, which shall be transferable, as provided in such certificates; and the Board of Directors shall cause suitable books for the registry and transfer of such shares to be kept, and every such transfer, to be valid, shall be made in such books, and signed by the shareholder, or his or her attorney, duly authorized, in writing, and the Board of Directors may close the transfer books from time to time, as the convenience of the Com-

pany may require. SEC. 9. That the Board of Directors, out of the funds of said Company, shall defray its expenses and pay its debts, and may declare and pay out of the surplus net profits of its business, to its shareholders, or their duly authorized attorneys, such dividends as they shall deem expe-

Increase of

Sec. 10. That the capital stock of said Company may, at any time, be capital stock, increased to any amount not exceeding in the aggregate two million (2,000,000) dollars, by the addition of new shares of one hundred (100) dollars each, duly subscribed for, and paid in, in such manner, and upon such terms as the Board of Directors shall prescribe: Provided, That such increase shall have been first authorized by the votes of a majority in interest of the stockholders.

Liabilities.

SEC. 11. That the stockholders of this Company shall be liable for the debts and obligations of the Company to the extent of double the amount of stock held by them.

Sec. 12. That this Act shall take effect immediately upon its passage, and shall continue in force for twenty-one years.

Approved February 28, 1870.

AN ACT TO PROVIDE FOR THE APPOINTMENT OF TRIAL JUSTICES. No. 267.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor, by and with the appoint.



advice and consent of the Senate, shall, from time to time, appoint and commission in the several Counties of the State, a suitable number of Trial Justices

A. D. 1870.

SEC. 2. Such Trial Justices shall be universal the several Counties requires, and the number in commission shall not ex- Justices for the several ten: Beaufort, the several SEC. 2. Such Trial Justices shall be distributed as the convenience of ceed, in Abbeville, nine; Anderson, sixteen; Barnwell, ten; Beaufort, ten; Charleston, twenty-four; Chester, eight; Clarendon, six; Colleton, ten; Chesterfield four; Darlington, eight; Edgefield, eight; Fairfield, eight; Georgetown, five; Greenville, eight; Horry, six; Kershaw, six; Lancaster, four; Laurens, five; Lexington, seven; Marion, six; Marlboro, six; Newberry, seven; Oconee, five; Orangeburg, seven; Pickens, five; Richland, eight; Spartanburg, twelve; Sumter, eight; Union, eight; Williamsburg, eight; York, eight.

SEC. 3. Trial Justices shall be commissioned and hold their offices for Term of office the term of two years, unless sooner removed by the Governor. If a Trial Justice changes his domicil, and removes therefrom the distance of three miles, his authority and jurisdiction as such Justice shall thereupon cease, and another Trial Justice may be designated and appointed in his place.

Change of

SEC. 4. The Governor is authorized to suspend from his office, for such causes as to him shall seem just, any Trial Justice, and to designate remove. another person to perform the duties of such suspended officer, (who, in turn, may be removed and another designated,) and he shall report such suspension to the Senate, together with the name of the person designated by him to perform the duties of such suspended officer; and if the Senate confirms the person so designated, the officer suspended shall be regarded as removed, and the vacancy duly filled; but if the Senate refuses to confirm him, the suspended officer shall be restored to his office.

Governor to

Confirma-

SEC. 5. This Act shall take effect on and after the first day of May next, but the Trial Justices herein provided for may be appointed and commissioned prior to that time, to enter upon their duties on and afterthat day; and on and after the said first day of May the office of Magisistrates abol trate is and shall be abolished.

ished.

SEC. 6. That during the vacation of the Senate, the Governor is authorized to appoint Trial Justices, subject to the approval of the Senate, to act, unless sooner removed by him, till the end of the next session. If not approved by the Senate, said appointments shall cease at the end of the said session.

Approved February 28, 1870.

AN ACT TO PROVIDE FOR AN ASSESSMENT OF REAL PROPERTY IN THE YEAR 1870.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an assessment of the real property in this State shall be made in the year one thousand eight hundred and seventy, at the same time that the assessment of personal property is made, and in the manner, and according to the rules prescribed for the



assessment of real property in the Act to provide for the assessment and taxation of property, passed the fifteenth day of September, 1868.

State Audi-or to carry tor to into effect.

SEC. 2. The State Auditor is hereby authorized and directed to adopt the measures necessary to carry out the intent of this Act, and to exercise, for the purpose of making and completing the assessment provided for in this Act, all the powers relating to the assessment of real property conferred upon him by the Act to provide for the assessment and taxation of property before cited.

Approved February 28, 1870.

No. 269. AN ACT TO INCORPORATE THE PLYMOUTH CONGREGATIONAL CHURCH, OF CHARLESTON.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Corporators. bly, and by the authority of the same, That P. M. Mazyck, W. J. Brodie, Thomas Cole, F. L. Cardozo, and all persons who now are, or who hereafter shall or may become members of the said society, shall be, and they are hereby, incorporated and declared to be a body corporate, by the name and style of the "Plymouth Congregational Church, of Charleston," and by that said name shall have succession of officers and members, and have a common seal. SEC. 2. That the said corporation shall have power to purchase, receive

Capital stock.

and possess any real or personal estate, for the purposes of this Act, not exceeding in value the sum of fifty thousand dollars, or to sell the same; and by its corporate name to sue and be sued in any Court in this State, and to make such rules and by-laws (not repugnant to law) as may be Powers, &c. thought necessary and expedient. Said society shall have all the powers, and be subject to all the liabilities and restrictions, of the Act to regulate the formation of corporations, so far as applicable.

SEC. 3. That this Act be deemed a public Act, and shall continue in

force for the term of twenty-five years.

Approved February 28, 1870.

No. 270. AN ACT GIVING AUTHORITY TO THE CITY COUNCIL OF CHARLESTON TO AMEND AN ORDINANCE ENTITLED "AN ORDINANCE TO AID IN REBUILDING THE BURNT DISTRICTS AND WASTE PLACES IN THE CITY OF CHARLESTON."

Authority.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That authority is hereby given to the City Council of Charleston to amend an Ordinance entitled "An Ordinance to aid in rebuilding the burnt districts and waste places in the City of Charleston," ratified the twenty-eighth day of August, in the year one thousand eight hundred and sixty-six, which said Ordinance was confirmed and ratified by an Act of the General Assembly, passed

September the nineteenth, in the year one thousand eight hundred and sixty-six, in any manner not inconsistent with the provisions of an Act entitled "An Act to repeal an Ordinance entitled 'An Ordinance to prevent the erection of wooden buildings, and to provide greater security against fires," and also certain portions of the Acts of the General Assembly referring to the erection of wooden buildings in the City of Charleston, passed in the year of our Lord one thousand eight hundred and seventy, and also such Sections of an Act of the General Assembly entitled "An Act for rebuilding the City of Charleston," as prohibit the erection of wooden buildings within the corporate limits of the said City of Charleston.

Approved February 28, 1870.

Approved February 28, 1870.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO FIX THE SALARY No. 271. AND REGULATE THE PAY OF CERTAIN OFFICERS," RATIFIED THE 26TH DAY OF SEPTEMBER, 1868.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That so much of the above Act as fixes the salary of the Secretary of State at "three thousand dollars, the same to include Clerk's salary," be amended by striking out between the words "dollars and Clerk's" the words "the same to include," and inserting in lieu thereof the following, to wit: "and one thousand dollars," so as to read as follows, viz: "The Secretary of State shall receive an annual salary of three thousand dollars, and one thousand dollars Clerk's salary."

Sec. 2. This Act shall take effect immediately after its passage.

Secretary of Clerk.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CHARTER THE PORT ROYAL RAILROAD COMPANY," RATIFIED DECEMBER TWENTY-FIRST, A. D. ONE THOUSAND EIGHT HUNDRED AND FIFTY-SEVEN.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section five of an Act entitled "An Act to charter the Port Royal Railroad Company," ratified December twenty-first, A. D. one thousand eight hundred and fifty-seven, be, and the same is hereby, amended by adding thereto the following words: "And the said Port Royal Railroad Company shall have power to mortgage its property and franchises, (including the privilege to be a corporation,) and issue bonds at such rates of interest, and upon such terms and conditions, and for such uses and purposes of said corporation, as the Board of Directors thereof may deem expedient."

Additional privileges.

SEC. 2. That the time for the completion of said Railroad is hereby Time of comextended to August first, eighteen hundred and seventy-one: Provided, pletion. Fifty miles are completed from the town of Beaufort, on or before January first, eighteen hundred and seventy one; and when so completed

the charter of said Company shall be deemed and held to be, and hereby is, extended for an additional period of fifty years: Provided, That the property of said corporation shall always be subject to taxation.

SEC. 3. That all Acts or parts of Acts inconsistent with this Act be,

and are hereby, repealed.

Approved February 28, 1870.

AN ACT TO FURTHER DETERMINE AND PERPETUATE THE HOME-STEAD.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That whenever the personal property of the head of any family, residing in this State, is taken or attached by virtue of any mesne or final process issued from any Court, and said person shall claim the said property, or any part thereof, as exempt from attachment by the provisions of Section 32 of Article II of the Constitution, whether the said person owns a homestead of real estate or not, it shall be the duty of the officer executing the said process to cause to be Officer to lay laid off and appraised such property as the said person may select, consisting of such articles as are enumerated in the Constitution, in the same manner as is prescribed in the Act of the General Assembly entitled "An Act to determine and perpetuate the homestead," ratified the ninth day of September, 1868, not to exceed in value the aggregate sum of five hundred dollars.

Section 1. Be it enacted by the Senate and House of Representatives

off and praise.

> Sec. 2. That the products of agricultural laborers, mechanics, artisans and tradesmen of every description, shall be subject to like exemption as above stated, without regard to valuation, character or condition of products or earnings.

Approved March 1, 1870.

AN ACT Prohibiting the Peddling of Ardent Spirits Through-No. 274. OUT THE STATE.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passage of this Act it shall not be lawful for any person, or persons, to peddle ardent spirits in any County in this State.

SEC. 2. That any person, or persons, violating this Act, on proof to conviction, shall be deemed guilty of a misdemeanor, and subject to pay a fine of not more than five hundred dollars, or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the Court; and everybody so convicted shall forfeit all such spirits, the same to vest in the County; and if the fine be paid, or the spirits forfeited, one-half thereof shall be paid to the informer.

Approved March 1, 1870.

l'enalty.

Prohibition.

AN ACT TO GRANT TO CERTAIN PERSONS THEREIN NAMED, AND THEIR Associates, the Right to Dig and Mine in the Beds of the NAVIGABLE STREAMS AND WATERS OF THE STATE OF SOUTH CARO-LINA FOR PHOSPHATE ROCKS AND PHOSPHATIC DEPOSITS.

A. D. 1870.

No. 275.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State of South Carolina does hereby give and grant to the following persons, to wit: Geo. W. Williams, Chas. C. Coe, Jas. H. Taylor, Jos. R. Robertson, Edwin Platt, Wm. L. Bradley, Jas. Bridge, Jr., Wm. Birnie, and such other persons as they may associate with them, the right to dig, mine and remove, for the full term of twenty one years, from the beds of the navigable streams and waters within the jurisdiction of the State of South Carolina, the phosphate rocks and phosphatic deposits: Provided, That the persons named, and their associates, shall not in any way interfere with the free navigation of the navigable streams and waters of the State, or the private rights of any citizen or citizens residing upon or owning the lands upon the banks of the said navigable rivers and waters of the State.

Corporators.

Powers.

Proviso.

Conditions.

SEC. 2. That this gift and grant is made upon the express condition that said grantees shall pay to the State of South Carolina the sum of one dollar per ton for every ton of phosphate rock and phosphatic deposits dug, mined and removed from the said navigable rivers and waters of the State: And, further, That said grantees shall pay into the Treasury of the State the sum of five hundred dollars as a license fee before commencing business under said grant.

To make re-

Sec. 3. Before commencing operations under authority of this Act, said grantees, and their associates, shall file, or cause to be filed, in the office of the State Auditor a bond in the penal sum of fifty thousand dollars, conditioned that said grantees, and their associates, shall make true and faithful returns to said State Auditor, annually, on or before the turns to Auditor. first day of October, and oftener, if required by the said State Auditor, of the number of tons of phosphate rocks and phosphatic deposits dug, mined and removed by them from the beds of the navigable streams and waters of the State, and shall punctually pay to the State Treasurer, annually, on the first day of October, one dollar per ton for every ton of phosphate rocks and phosphatic deposits by them dug, mined and removed from the beds of the navigable streams and waters of the State during the year preceding, said bond to be renewed annually, and approved by the Attorney-General. The books of said grantees and their associates, shall be opened to the inspection of the State Auditor, or agent duly appointed by him for that purpose.

Auditor to inspect books

Returned to the Senate with the objections of His Excellency the Governor, Tuesday March 1st, 1870.

In the Senate, March 1st, 1870.

On the question "Shall this Act pass and become a law, the objections of His Excellency the Governor to the contrary notwithstanding," the

STATUTES AT LARGE

A. D. 1870.

yeas and nays were ordered (in accordance with Article 3, Section 22, of the Constitution,) the Act passed by viva voce vote, yeas, 19; nays, 5; and was ordered to be sent to the House of Representatives.

By order:

(Signed)

J. WOODRUFF, Clerk of the Senate.

In the House of Representatives, March 1st, 1870.

On the question, "Shall this Act pass, the objections of His Excellency the Governor to the contrary notwithstanding?" the yeas and nays were ordered, (in accordance with Article 3, Section 22, of the Constitution,) the Act passed by viva voce vote, yeas, 77; nays, 24, and ordered to be returned to the Senate.

By order:

(Signed)

A. O. JONES, Clerk of the House of Representatives.

No. 276. AN ACT RELATIVE TO THE POWER OF THE CITY COUNCIL OF CHARLES-TON TO IMPOSE PUNISHMENTS FOR THE VIOLATION OF CITY ORDI-NANCES.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, city Council., and by the authority of the same, That the City Council of Charleston be, and they hereby are, authorized to impose, for the violation of Ordinances, imprisonment in the Work House or Jail not exceeding thirty days, in addition, or, in the alternative, to penalties now authorized to be

imposed by Ordinances of said city.

Police Court.

SEC. 2. That the Police Court, the City Court of Charleston, and Trial Justices residing within the limits of the City of Charleston, are vested with jurisdiction to try, determine and impose the penalties authorized by Ordinance of the City Council of Charleston, pursuant to this Act: Provided, That whenever a jury is demanded by a party charged before the Police Court, he shall be transferred to the City Court or a Trial Justice for trial.

Approved March 1, 1870.

No. 277. AN ACT to make Appropriations and Raise Supplies for the Fiscal Year commencing November 1st, 1869.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the following sums be, and they are hereby, appropriated for the payment of the various officers and expenses of the State Government, that is to say:

For Salaries.

A. D. 1870. Salaries of

For the Governor, three thousand five hundred dollars; for the State & Coun-Secretary of State, three thousand dollars; for completing the in-ty Officers. dex to the records of the office of the Secretary of State, two thousand dollars; for Clerk to Secretary of State, one thousand dollars; for the Private Secretary of the Governor, two thousand dollars; for the Adjutant and Inspector-General, twenty-five hundred dollars; for the Assistant Adjutant and Inspector-General, fifteen hundred dollars; for the Comptroller-General, three thousand dollars; for Clerk to the Comptroller-General, one thousand dollars; for the State Treasurer, twentyfive hundred dollars; for the Chief Clerk to the State Treasurer, eighteen hundred dollars; for a book keeper for State Treasurer, eighteen hundred dollars; for the Auditor of the State, twenty-five hundred dollars; for the State Auditor's Clerk, one thousand dollars; for the Superintendent of Education, twenty-five hundred dollars; for the Clerk to the Superintendent of Education, eight hundred dollars; for the Chief Constable, fifteen hundred dollars; for the Chief Justice of the Supreme Court, four thousand dollars; for the two Associate Justices, seven thousand dollars; for the eight Circuit Judges, twenty-eight thousand dollars; for the eight Circuit Solicitors, eight thousand dollars; for the Attorney-General, three thousand dollars; for the Attorney-General's Clerk, one thousand dollars; for the Clerk of the Supreme Court, who shall perform the duties of Librarian of said Court, fifteen hundred dollars; for the State Reporter, fifteen hundred dollars; for the Keeper of the State House and State Librarian, seven hundred dollars; for the Superintendent of the South Carolina Penitentiary, two thousand dollars; for the three Health Officers, three thousand nine hundred dollars; for the Watchmen of the State House and Grounds, six hundred dollars each; for the County Auditors, thirty-one thousand five hundred dollars; for Clerk to the Auditor of the County of Charleston, one thousand dollars; for the three Code Commissioners, ten thousand five hundred dollars; for the Governor's Messenger, three hundred dollars; for the Land Commissioner, two thousand dollars; for the County School Commissioners, thirty-one thousand five hundred dollars; for the Commissioner of the Bureau of Agricultural Statistics, fifteen hundred dollars.

Executive Department.

SEC. 2. For contingent fund of the Governor, twenty-five thousand Contingent dollars, out of which shall be paid the expenses of the Bureau of Agri-utive Departcultural Statistics, to be drawn upon the order of the Governor; for the ment. contingent fund of the Treasurer, one thousand dollars; for the contingent fund of the Comptroller-General, one thousand dollars; for the contingent fund of the Attorney-General, one thousand dollars; for the contingent fund of State Auditor, one thousand dollars; for the contingent fund of the Adjutant and Inspector-General, twenty-five hundred dollars; for the contingent fund of the Superintendent of Education, one thousand dollars; for the contingent fund of the Secretary of State, one thousand dollars; for the contingent fund of the Chief Constable, five hundred dollars; for the contingent fund of the State Librarian, three hundred dollars.

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The above appropriations to be drawn on the order of the heads of the several departments, if so much be necessary.

Judiciary Department.

SEC. 3. For the purchase of books for the Supreme Court Library, Judiciary five thousand dollars, if so much be necessary, to be drawn on the order of the Chief Justice; for contingent expenses of the Supreme Court, under Section 7 of an Act ratified the eighteenth day of September, 1868, one thousand dollars.

Ordinary Civil Expenses.

vil Expenses.

Sec. 4. For contingent accounts for the expenses of the general election of 1870, fifteen thousand dollars, if so much be necessary, accounts to be audited by the State Auditor, and paid on the warrant of the Comptroller-General; for the support of the Lunatic Asylum, sixteen thousand dollars, to be drawn on the order of the Governor; for the support of the State Orphan Asylum, fifteen thousand dollars, to be paid in accordance with the law establishing the same; for Quarantine expenses, four thousand dollars, to be drawn on the order of the Comptroller-General, accounts to be first approved by the Governor; for the Physician of the Charleston Jail, one thousand dollars; transportation and clothing for discharged convicts, three hundred dollars; for the Catawba Indians, fifteen hundred dollars, to be paid on the order of the Governor: for the State Constabulary, thirty thousand dollars, if so much be necessary, to be paid on the order of the Governor; for contingent account of the State, including the payment of expenses of the General Assembly and printing, one hundred and twenty-five thousand dollars; also, the sum of thirteen thousand four hundred and fifty 24-100 dollars, to meet the deficiency in the Legislative appropriation for regular session of eighteen hundred and sixty-eight and eighteen hundred and sixty-nine; the further sum of six thousand three hundred and forty 18-100 dollars, remaining undrawn, of the appropriation for the payment of the Special Session of 1868, can be applied, if necessary, for the payment of the above accounts. ments to be made in the usual manner: Provided, That all contingent accounts be audited by the State Auditor, and paid on the warrant of the Comptroller-General.

Extraordinary Expenses.

ary Expenses.

SEC. 5. For continuing the construction of the South Carolina Penitentiary, eighty thousand dollars, to be paid on the order of the Governor; for repairs and extension of the buildings of the Lunatic Asylum, ten thousand dollars, to be paid on the order of the Governor, accounts to be approved by the Board of Regents; for repairs on the University buildings, ten thousand dollars, if so much be necessary, to be paid on the order of the Governor, accounts to be approved by the Board of Trustees; for the purchase of books for the Library of the University of South Carolina, two thousand five hundred dollars, the same to be expended under the direction of the Board of Trustees of the University; for building a vault to Comptroller-General's office, five thousand dollars, if so much be necessary, accounts to be approved by the Comptroller-General, and paid on the order of the Governor; for fitting up the New

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State House, thirty thousand dollars, if so much be necessary, the contract to be awarded by the Governor and the Executive Committee appointed by the Joint Committee of the General Assembly, to invite proposals for the completion of the State House, the money for the payment of said work to be paid upon the order of the Governor; for the remodeling and repairs of the Governor's Mansion, five thousand dollars, to be paid on the order of the Governor; for payment of account of J. S. G. Richardson, for 114 copies of Richardson's Law, Equity and Law, and Equity Reports, agreeable to joint resolution authorizing the Secretary of State to purchase the same, approved March 26, 1869, eight hundred and seventeen dollars; for payment of accounts of Bryan & Mc-Carter, for furnishing 100 copies of Richardson's 15th Volume Law Reports, and 100 copies of Richardson's 14th Volume Equity Reports, agreeable to joint resolution passed, eleven hundred dollars; for payment of salary due C. D. Melton, for services rendered the State as Solicitor of Northern Circuit, one thousand five hundred and seventy-five dollars; for payment of salary due J. Williman, for services rendered as Messenger of Court of Appeals in Charleston County, and Messenger and Librarian of the same, two hundred and eighty-seven 50-100 dollars.

Educational Department.

Sec. 6. For the support and maintenance of free schools, fifty thousand dollars, in addition to the capitation tax: Provided, That said sum of Department. fifty thousand dollars be apportioned among the several Counties of the State in proportion to their representation in the lower branch of the General Assembly: And provided, further, That each County shall be entitled to the amount of poll tax raised in said County; for the support of the South Carolina University, twenty-five thousand dollars, to be paid on the order of the Governor; for the education of the deaf, dumb and blind, eight thousand dollars, to be paid on the order of the Governor.

Military Expenses.

SEC. 7. To defray the expenses of the enrollment, organization and equipment of the militia, fifty thousand dollars, to be disbursed by the Adjutant and Inspector-General, on the order of the Governor.

SEC. 8. For the payment of the interest on the public debt, three hun-

dred and fifty thousand dollars.

Interest on Public Debt.

SEC. 9. That all taxes assessed and payable under this Act shall be paid in the following kind of funds, viz: Bills Receivable of the State, United States Currency, National Bank Notes, Gold or Silver Coin.

Taxes.

Approved March 1, 1870.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE APPOINTMENT OF A LAND COMMISSIONER, AND TO DEFINE HIS Powers and Duties," and for other purposes therein men-TIONED

No. 278.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly,

Treasurer to issue bonds to

and by the authority of the same, The Treasurer of the State is hereby authorized and directed to issue to the Land Commissioner bonds of the State, in the sum of five hundred thousand dollars, with coupons attached, the Advisory if in the opinion of the Advisory Board so much be necessary, bearing six per cent interest; the principal payable within twenty years, at the Financial Agency of this State in the City of New York; the bonds to be signed by the Governor and countersigned by the Treasurer of the State, and the coupons to be signed by the Treasurer of the State; which bonds shall be negotiated in such form and manner as the Advisory Board, by a majority of votes, shall determine. The faith and credit of the State is hereby pledged to the payment of the principal and interest of said bonds; and a sufficient amount of taxes is hereby levied to pay the interest accruing on said bonds annually.

Taxes.

Purchaseshow made.

SEC. 2. The Land Commissioner shall be subject to the action of a majority of the Board, and any purchase or sale of property made without their advice or consent shall not be valid.

SEC. 3. That no purchase shall be made without the certain knowledge of the Commissioner that he will be able to sell the same without delay. SEC. 4. That all Acts or parts of Acts inconsistent with this Act be,

and are hereby, repealed. Approved March 1, 1870.

No. 279. AN ACT TO ENFORCE THE PROVISIONS OF THE CIVIL RIGHTS BILL OF THE UNITED STATES CONGRESS, AND TO SECURE TO THE PEOPLE THE BENEFITS OF A REPUBLICAN GOVERNMENT IN THIS STATE

Preamble.

Whereas, in this State the Government is a Democracy, the people ruling, and the government is also a Republican one, in which all things pertaining to the government are in common among all the people; and whereas, it follows that no person is entitled to special privileges, or to be preferred before any other person in public matters, but all persons are equal before the law; and whereas, these propositions lie at the very foundation of our policy, and the American people have embodied the same, in the most emphatic manner possible, in their organic and statute laws, and the same do by their sovereign will and pleasure sustain; and whereas, notwithstanding all these great and glorious facts, there are found some brutal, ill-disposed and lawless persons in the State who persist in denying and trampling upon the sacred rights of certain of the people; therefore,

Common carriers discriminating on account of color,

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, It shall not be lawful for any common carriers, or any party or parties engaged in any business, calling or pursuit, for the carrying on of which a license or charter is required by any law, municipal, State or Federal, or by any public rule or regulations, to discriminate between persons on account of race, color or previous condition, who shall make lawful application for the benefit of such business, calling or pursuit.

Assigning special quar-

SEC. 2. Whoever, being a common carrier, under any public license, charter, rule or regulation, shall, by himself or another, wilfully assign

any special quarters or accommodations whatever to any passenger or person whom such common carrier may have undertaken to carry, or who shall, under any pretence, deny or refuse to any person lawfully applying for the same, accommodation equal in every respect to that furnished by him to any other person, for like compensation or reward, in a like case, having no regard to the persons per se who may be applicants therefor, shall, on conviction, be punished by a fine of one thousand dollars, and also by confinement at hard labor in the Penitentiary for five years; and if such fine be not paid, the convict shall be confined in the A. D. 1870.

Penalty.

Theatres, &c.

Refusing ad-

Penalty.

Aider and

Penitentiary at hard labor, as aforesaid, for not less than six years. SEC. 3. Whoever, conducting or managing any theatre, or other place of amusement or recreation, by whatever name the same may be recognized, or however called or known, if such theatre or place be licensed or chartered, or be under any public rule or regulation whatever, shall wilfully make any discrimination against any person lawfully applying for accommodation in, or admission to, any such theatre or place, on account of the race, mission or adcolor, or previous condition of the applicant, or shall refuse or deny to equate accommodation. any person lawfully applying therefor, accommodation equal in every respect to that furnished at such place for a like reward to any other person, on account of race, color or previous condition of the applicant therefor, shall, on conviction, be punished by a fine of one thousand dollars, and also imprisonment at hard labor in the Penitentiary for three years.

SEC. 4. Whoever, not being the principal offender under Sections two and three of this Act, shall aid or abet in or about the commission of any of abettor. the offences therein mentioned, shall, on conviction, be punished by imprisonment at hard labor in the Penitentiary for three years, and no such convict shall ever vote or hold any office under any law of this State.

Sec. 5. Every commander, conductor, manager or other person superintending or having charge of any vessel or vehicle, or any theatre or other place mentioned in this Act whatsoever, and as such having authority and power to order and manage affairs in or about the same, who shall suffer or permit to occur any violation of this Act which such commander, conductor, manager or person so superintending, and having such charge as aforesaid, can possibly prevent, shall be considered an aider and abettor in the commission of any such offence, and, on conviction, shall be subject to the penalties provided in Section four of this

SEC. 6. Every corporation or party whatever, holding any charter or license under the authority of this State, who shall violate any of the provisions of this Act, shall thereupon be deemed and held to have committed an abuse of the franchises conferred by or under every such charter or license, and, on conviction, shall forfeit every such charter or license; and any party or parties who, having so forfeited any such charter or license as aforesaid, shall nevertheless presume to use or operate under or by virtue of the same, as well as every person who shall be found aiding any such party or parties thereabout, shall, on conviction, be punished by a fine of one thousand dollars or imprisonment in the Penitentiary for three years.

Sec. 7. In every trial for violating any provisions of this Act, when it shall be charged that any person has been refused or denied admission to, or due accommodation in any of the places in this Act mentioned, on ac-

Corporations violating this

Penalty.

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A. D. 1870.

Burden on the defendant party.

count of the race, color or previous condition of the applicant, and such applicant is a colored or black person, the burden shall be on the Defendant party, or parties, so having refused or denied such admission or accommodation, to show that the same was not done in violation of this Act.

Sec. 8. Every case arising under the first Section of this Act, and not provided for specifically in some succeeding Section, shall be prosecuted

and decided in accordance with the general provisions of this Act.

prosecute.

SEC. 9. The several Solicitors of this State are hereby specially charged Solicitors to to take care that this Act be promptly and rigorously enforced; and every such Solicitor who shall fail in any respect in the performance of his duty under the requirement in this Section contained, shall be deemed to have committed a misfeasance in office, and, on conviction, shall forfeit his office, and be incapable of holding office for five years, and shall also Failure to pay a fine of five hundred dollars, and, in every case in which any such Solicitor shall fail in his duty, as herein prescribed, the Attorney-General shall make the most effective prosecution possible against him on behalf ney General of the State; and neither any Solicitor nor the Attorney-General shall prosecute settle or enter a not make in any case gricing under this Act are the settle or enter a nol. pros. in any case arising under this Act, except by

The Attor-Solicitor.

prosecute.

the consent of the Court. Sec. 10. All Acts and parts of Acts inconsistent with this Act, or supplied by it, are hereby repealed.

SEC. 11. This Act shall take effect from and after its passage. Approved March 1, 1870.

No. 280. AN ACT TO PROVIDE FOR A SINKING FUND, AND THE MANAGEMENT OF THE SAME.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, For the purpose of paying the present indebtedness of the State, and the interest thereon, and such furothers to be ther indebtedness as may hereafter be contracted by the State, the Gov-commission- ernor the Comptroller-General and the Attorney-General of the State ernor, the Comptroller-General and the Attorney-General of the State, the Chairman of the Finance Committee of the Senate, and the Chairman of the Committee of Ways and Means of the House of Representatives, are hereby constituted Commissioners, to be known and designated as "The Commissioners of the Sinking Fund," to receive and manage the incomes and revenues hereafter set apart and applied to the Sinking Fund of the State.

ers.

Sec. 2. And it shall be the duty of said Commissioners to sell and con-Powers of vey, for and on behalf of the State, all such real or personal property, the Commis- assets and effects belonging to the State as is not in actual public use, said sales to be made from time to time in such manner and upon such terms as they may deem most advantageous to the State. The proceeds of all such sales shall be set aside, and awarded to the Sinking Fund of the This Act shall not be construed to authorize the sale by the Commissioners of any property held in trust for a specific purpose by the State, or the property of the State in the phosphate rocks, or phosphatic deposits in the beds of the navigable streams and waters of the State.

Report the General Assembly.

SEC. 3. The Commissioners shall annually report to the General Assembly the condition of the Sinking Fund, and all sales or other transactions connected therewith; and all the revenues derived from such sales [A. D. 1870. shall be applied to the extinguishment of the public debt, by investing the same in the public securities of the State.

Approved March 1, 1870.

AN ACT TO INCORPORATE THE "WILMINGTON AND CAROLINA RAIL-ROAD COMPANY."

No. 281.

Preamble.

Whereas, William T. Walters, Benjamin F. Newcomer and D. Willis James, for themselves, and as trustees for others, under decrees of sale made by the Courts of North Carolina and of South Carolina, for the purpose of foreclosing the various mortgages made by the Wilmington and Manchester Railroad Company, have become the purchasers of all and singular the estate, property and effects of said Company, including the entire line of railroad, the engines, rolling stock, machinery, machine shops, depots and other tangible property and effects heretofore belonging to said Company, together with all the rights, franchises and privileges of said Company connected with or relating to said railroad, or the construction, maintenance or use thereof, between its eastern terminus, at Wilmington, North Carolina, and its western terminus, at Kingsville, South Carolina; and

Whereas, the said William T. Walters, Benjamin F. Newcomer, D. Willis James and their associates, are desirous, by themselves, and such other persons as may be hereafter associated with them, to keep up, maintain, use and operate the aforesaid line of railroad as one single or entire corporation in the two States in which the same is located, and for this purpose it is necessary that they should be incorporated and become a body politic, with like powers, privileges and franchises in each of said

two States of North Carolina and South Carolina:

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That, for the purpose set forth in the preamble hereto, William T. Walters, Benjamin F. Newcomer, D. Willis James and their associates, purchasers, as aforesaid, of the estate, property and effects of the Wilmington and Manchester Railroad Company, together with such other persons as may hereafter become associated with them as stockholders under the provisions of this Act, and their successors and assigns, are hereby constituted and declared to be a body politic, and incorporated by the name and style of the Wilmington and Carolina Railroad Company, or by such other name and style as a majority in interest of the persons who are purchasers, as aforesaid, may designate and adopt at their first meeting after the passage of this Act, filed within six months thereafter in the offices of Secretary of State of each of the States of North Carolina and South Carolina, and in the offices of the Clerks of the Superior Courts of each and every County in a and South said two States in which any part of the railroad of said Company is or Carolina, and Clerk Superior may be constructed. The capital stock of said corporation shall not ex- or courts. ceed five millions of dollars, to be divided and held in shares of one hun-Capital stock. dred dollars each, and the corporators hereinbefore named, or otherwise

Corporators.

Name.



Shares.

referred to, or a majority in interest of such corporators may, at any meeting held for that purpose, after twenty days' notice by advertising in such newspapers as may be designated by the corporators herein named, or a majority of them, of the time and place of such meeting, determine the number of such shares to be subscribed for as the present capital of said corporation, or as representing the present value of the estate, property and effects, purchased by them as aforesaid; and they may open books of subscription for the same at such times and places, and under such regulations and requirements as to them may seem best.

By-Laws.

Officers.

SEC. 2. The stockholders of said corporation may make all such bylaws, rules and regulations, not inconsistent with the laws of the United States, and of the States of North Carolina and South Carolina, as shall be deemed necessary for the well ordering and conducting the affairs of the Company. They may prescribe the number of Directors, and the number and character of the officers of said corporation, the manner of their election, and the amount of their compensation, the term of their respective offices, the manner in which any Director or officer may be removed, and the mode of supplying any vacancy arising from any cause whatever, either among the Directors or officers of said Company.

Powers and franchises.

SEC. 3. The said corporation is hereby vested with all the rights, powers, privileges and franchises granted to the Wilmington and Manchester Railroad Company by the Act of the General Assembly of the State of North Carolina incorporating said Company, and ratified the 9th day of January, one thousand eight hundred and forty-seven, and by the Act of the General Assembly of the State of South Carolina, incorporating said Company, and ratified the 18th day of December, one thousand eight hundred and forty-six, subject, however, to all such limitations and restrictions as are in said Acts respectively contained; and said Acts incorporating said Wilmington and Manchester Railroad Company, except so far and in such respects as they are by this Act altered or amended, and except such provisions therein contained as may be considered as inapplicable and unnecessary in the organization of the corporation created by this Act, or in the management or direction of its affairs, shall be considered as setting forth and defining the chartered rights, powers, privileges and franchises of this corporation.

Change of line—extent.

Branch.

Take lands at valuation.

SEC. 4. The said corporation may alter or change the present line of the Railroad, purchased, as aforesaid, at such points along the line as may be of deemed most judicious by the stockholders, and the said corporation shall have the right to extend said railroad, purchased, as aforesaid, to Columbia, with a branch to connect with a road to Millen, in the State of Georgia; and, in the event of a want of agreement with the owners of any lands through which said railroad, by reason of any such change, alteration or extension, will pass, as to the value of such lands; or, in event of such want of agreement with the owners of any lands which may be deemed necessary for the use or protection of such railroad, may take such lands at a valuation to be made in the same manner, and in all respects under like proceedings, regulations and restrictions as are prescribed and provided in the Act of the General Assembly of the State of South Carolina, passed September 22, 1868, and entitled "An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations, may be taken for the construction and uses of railways and other works of internal improvement."

SEC. 5. The said corporation shall have power to borrow money, to issue bonds or other evidences of any indebtedness so created, and secure the payment of the same by mortgage of its property and effects, or otherwise; may lease or rent to any other corporation, or any person or persons, their line of railroad, for any term which may be agreed on, or may, in like manner, become the lessees of the railroad of any other Company, or may consolidate their line of railroad and their capital stock with the railroad and capital stock of any other railroad Company: Provided, however, That none of the powers granted in this Section shall be exercised, unless assented to by a majority in interest of the stockholders of said Company, in a general or special meeting, duly assembled.

Sec. 6. This charter is granted upon the express condition that said

railroad Company shall not be exempt from taxation in this State.

Approved March 1, 1870.

A. D. 1870.

Issue bonds.

Lease other Railroads.

Proviso.

Taxation.

AN ACT TO INCORPORATE THE ENTERPRISE RAILROAD COMPANY, OF CHARLESTON, SOUTH CAROLINA.

No. 282.

Corporators.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That R. H. Cain, R. C. DeLarge, A. J. Ransier, B. A. Bosemon, Wm. J. Whipper, T. K. Sasportas, R. B. Elliott, Jos. H. Rainey, Wm. M. Thomas, Lucius Wimbush, George Lee, Wm. McKinlay, Henry J. Maxwell, Samuel L. Bennett, John B. Wright, Moses Vandihorst, Wm. H. W. Gray, Jas. N. Hayne, W. J. Brodie, W. R. Jervay, Wm. T. Elfe, Robert Small, C. D. Hayne, Jno. Everett, Timothy Hurly, E. W. M. Mackey John Bonum, Thos. H. Holmes, W. E. Johnson, Samuel Johnson, Stephen Brown, and all those persons who may become members of the Enterprise Railroad Company, of Charleston, be, and the same are hereby, declared a body politic and corporate, under the style and name of the "Enterprise Railroad Company, of Charleston," and by that title shall have power to take, subscribe and raise a capital stock to the amount of two hundred and fifty thousand dollars, (\$250,000,) in shares of twenty-five dollars (\$25) each, if so much be necessary for the purpose contemplated, with power to increase the said capital to the further sum of five hundred thousand dollars, (\$500,000,) if found necessary: Provided, That such increase be assented to by a majority in number of the stockholders, who shall be notified in two of the public papers of the city of Charleston of a meeting to be held for that purpose.

Capital stock.

Proviso.

Extent of

SEC. 2. That the said "Enterprise Railroad Company, of Charleston," shall have power and authority to lay railway tracks from the Battery, road. or "White Point Garden," on East Bay street, in the city of Charleston, through and along East Bay street to Calhoun street, through and along Calhoun street to Alexander street, through and along Alexander street to Judith street, through and along Judith street to America street, through and along America street to Amherst street, through and along Amherst street to Wolfe street, through and along Wolfe street to Meeting street, and thence along Meeting street and the State Road to the "Ten Mile Hill," to such point as they may deem most advantageous.

Privileges and rights.

SEC. 3. That the said "Enterprise Railroad Company, of Charleston," shall be able and capable, by its corporate name, to buy property and to sell, for the purpose of its business, to sue and be sued, to plead and be impleaded, in any Court of Law or Equity in this State, to have succession of officers and members, and shall have power to make by-laws, not repugnant to the laws of the land, for the government and good order of its members, as shall be deemed expedient by a majority of the stockholders, and to have a common seal, and to alter and make new the same.

SEC. 4. That the said "Enterprise Railroad Company, of Charleston," Issue of bonds shall have power and authority to issue bonds to an amount equal to onehalf of their capital subscribed, the same to be redeemable at such time, not exceeding twenty (20) years, as may be agreed upon by the said Company, and to bear interest at seven per cent. per annum, payable semiannually.

SEC. 5. That this Act shall remain in force and continue for the term of thirty (30) years.

SEC. 6. That all Acts or parts of Acts inconsistent with this Act are hereby repealed.

Approved March 1, 1870.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE No. 283. BARNWELL RAILROAD COMPANY."

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Geo. D. Chapman, H. H. Boody, William H. Thorp, Henry Budge, John D. Mills, A. W. Greenleaf, W. W. Dechalt, C. P. Leslie, Charles R. Abbott, Willis Gaylord, S. C. Pomeroy, and their associates, now forming and constituting the Barnwell Railroad Company, be, and they and their successors are hereby, authorized and empowered to extend the said railroad from a point at or near of Blackville to Sumter Court House, in a line as nearly straight as may be practicable or convenient, so as to form a direct line from Sumter Court House to the Savannah River.

Extent road.

Corporators.

Sec. 2. That the capital stock of the said Company may be increased Capital stock: at pleasure to a sum not exceeding three millions of dollars, to be divided into shares of one hundred dollars each.

SEC. 3. That for the purpose of constructing the said railroad, and the extension thereof, hereinbefore provided for, the said Company is hereby Powers and invested with all the powers and privileges, and subject to all the duties and liabilities that the Greenville and Columbia Railroad Company are invested with and subject to by an Act entitled "An Act to charter the Greenville and Columbia Railroad Company," ratified on the fifteenth day of December, in the year of our Lord one thousand eight hundred and forty-five, and all Acts amendatory thereof, so far as the same are applicable, or may become so; and the charter of the said Greenville and Columbia Railroad Company shall attach, and, so far as is practicable, become the charter of the said Company: Provided, That the property of said railroad Company shall not be exempt from taxation.

Greenville and Columbia Railroad.

privileges.

Approved March 1, 1870.

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AN ACT Providing for the General Elections, and the Manner OF CONDUCTING THE SAME.

A. D. 1870.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the general elections in this State shall be held, pursuant to the Constitution thereof, on the third Wednesday in October, eighteen hundred and seventy, and forever thereafter, on the same day in every second year, and shall be regulated and conducted according to the rules, principles and provisions herein prescribed.

No. 284.

When held.

SEC. 2. Every male citizen of the United States, of the age of Who entitled twenty-one years and upwards, not laboring under the disabilities named in the Constitution, without distinction of race or color or former condition, who shall have been a resident of the State for one year, and in the County in which he offers to vote for sixty days next preceding any general election, shall be entitled to vote: Provided, That no person while kept in any alms house or asylum, or of unsound mind, or confined in

any public prison, shall be allowed to vote.

Sec. 3. That for the purpose of carrying on such election it shall be the duty of the Governor, and he is hereby authorized and empowered, at appoint Commissioners of least sixty days prior to any such election, to appoint in and for each Election. County three Commissioners of Election, whose duty it shall be, and they are hereby, authorized and empowered to appoint three Managers of Elections, for each election precinct of the County for which they shall respectively be appointed. The said Commissioners of Elections and said Managers of Elections shall take and subscribe, before any officer authorized to administer oaths, the oath of office prescribed by Section 30 of Article II of the Constitution, and the same shall be immediately fice. filed, in each instance, in the office of the Clerk of the County in which said Commissioners and Managers shall be appointed; and if there be no such Clerk duly qualified by law, then in the office of the Secretary of State.

Governor to

Oath of of-

Sec. 4. That the Managers are hereby authorized to appoint a Clerk to assist them in whatever duties may be required of them, who shall take the oath of office prescribed by Section 30 of Article II of the Constitution before the Chairman of the Board of Managers.

Sec. 5. That the Commissioners aforesaid, and the Managers aforesaid,

at their first meetings, respectively, shall proceed to organize themselves as a Board, by appointing one of their number Chairman of the Board;

and such Chairman, in each instance, shall be empowered to administer

Clerk.

Oath.

Board.

Chairman.

Polls.

the necessary oaths. SEC. 6. The polls shall be open at such voting places as shall be designated at six o'clock in the forenoon, and close at six o'clock in the afternoon of the day of election, and shall be kept open during these hours without intermission or adjournment, and the Managers shall administer to each person offering to vote an oath that they are qualified to vote at this election, according to the Constitution of this State, and that son voting. they have not voted during this election.

SEC. 7. Representatives in the House of Representatives of the Contrives in Congress of the United States shall be chosen at such election, in the several gress. Congressional Districts, by the qualified electors therein.



A. D. 1870. SEC. 8. The State Constables, and other peace officers of each County, are hereby required to be present during the whole time that the polls State Constaare kept open, and until the election is completed; and they shall prebles. vent all interference with the Managers, and see that there is no interruption of good order. If there should be more than one polling place in any County, the State Constable of such County is hereby empowered and directed to make such assignment of his deputies, and other peace officers, to such polling places as may, in his judgment, best subserve the

purposes of quiet and order.

Prohibiting sale of liquor.

SEC. 9. All bar-rooms, saloons, and other places for the sale of liquors by retail, shall be closed at six o'clock of the evening preceding the day of such election, and remain closed until six o'clock in the morning of the day thereafter, and during the time aforesaid the sale of all intoxicating liquors is prohibited. Any person duly convicted before a competent Court of a violation of this Section, shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment, in the discretion of the Court.

Penalty.

Corruptly influencing oth-

Penalty.

SEC. 10. That every person who shall vote at any general election, who is not entitled to vote, and every person who shall, by force, intimidation, deception, fraud, bribery or undue influence obtain, procure, or control the vote of any elector to be cast for any candidate or measure, other than as intended or desired by such elector, shall be punished by a fine of not less than one hundred, nor more than one thousand dollars, or by imprisonment in jail not less than three months, nor more than twelve months, or both, within the discretion of the Court.

SEC. 11. The voting shall be by ballot, which shall contain written or Vote by bal- printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen; and shall be so folded as to conceal the contents; and such ballot shall be deposited in a box to be constructed, kept and disposed of as hereinafter provided.

SEC. 12. There shall be one general ticket, on which shall be the names of the persons voted for as Representatives in Congress, and State,

Circuit and County Officers.

Ballot-box.

Poll list.

Ticket.

SEC. 13. The Commissioners of Elections shall provide one box for each election precinct. An opening shall be made in the lid of such box, not larger than shall be sufficient for a single ballot to be inserted therein at one time, through which each ballot received, proper to be placed in such box, shall be inserted by the person voting, and by no other; each box shall be provided with a sufficient lock, and shall be locked before the opening of the poll, and the keys retained by the Commissioners, and shall not be opened during the election. Such boxes shall be labelled as follows: Congress, State, Circuit and County Officers.

SEC. 14. Each Clerk of the poll shall keep a poll list, which shall contain one column headed "Names of Voters;" and the name of each elector voting shall be entered by the Clerk in such column.

SEC. 15. At the close of the election, and within three days after the day thereof, the Chairman of the Board of Managers, or one of them, who may be designated by the Board, shall deliver to the Commissioners of Elections the poll list, and boxes containing the ballots.

Of the Commissioners of Elections as Canvassers, and their Proceedings.

A. D. 1870.

SEC. 16. The Commissioners of Elections shall meet at the County seat, as provided in the last preceding Section, and shall proceed to organize, and shall form the County Board of Canvassers.

Meeting.

SEC. 17. They shall meet in some convenient place at the County seat, Organization of Board Canon the Tuesday next following the election, before one o'clock in the af-vassers. ternoon of that day. They may appoint some competent person as Secretary. The Chairman shall then proceed to administer the constitutional oath to each member of the Board, as Canvassers; and shall administer the constitutional oath to the Secretary, and the Secretary shall administer to the Chairman the same oath that he shall have administered to the

other members of the Board.

SEC. 18. They shall then proceed to count the votes of the County, and shall make such statements thereof as the nature of the election shall require, within ten days of the time of their first meeting as a Board of County Canvassers, and shall transmit to the Board of State Canvassers any protest and all papers relating to the election.

Count votes.

SEC. 19. Duplicate statements shall be made and nied in the omce or statement the Clerk of the County; and if there be no such Clerk, duly qualified, of the Clerk or Secretary. SEC. 19. Duplicate statements shall be made and filed in the office of according to law, then in the office of the Secretary of State.

Secretary of State.

SEC. 20. They shall make separate statements of the whole number of votes given in such County for Representatives in Congress; and separate statements of all other votes given for other officers. Such statements shall contain the names of the persons for whom such votes were given, and the number of votes given for each, which shall be written out in words at full length.

To make separate state-

SEC. 21. There shall be prepared by the Commissioners three separate lists of each statement, besides the lists to be filed in the office of the County Clerk or Secretary of State, and each list shall be certified to as correct by the signatures of the Commissioners subscribed to such certificate.

Additional

SEC. 22. After the final adjournment of the Board of County Canvassers, and within the time prescribed in Section 17 of this Act, the Chair-pies to be sent man of the Board shall deposit in the nearest post office, directed to the Governor, Secretary of State, and Comptroller-General, (the full postage ryof state and reid) such one of the corrifold series of the statement and contificate of Comptroller paid,) each, one of the certified copies of the statement and certificate of General, votes, prepared as provided in the last preceding Section.

Certified co-

Of the Formation and Proceedings of the Board of State Canvassers.

SEC. 23. The Secretary of State shall appoint a meeting of State Canvassers, to be held at his office, or some convenient place, on or before the State to convenient place, on or before the State to convenient place, on or before the State to convenient place, or some convenient place, or some the State to convenient place, or some convenient place, or some the State to convenient place, or some convenient place, or some the State to convenient place, or some the State to convenient place, or some convenient place, or some the State to convenient place, or some convenient place, or some the State to convenient place, or some convenient p tenth day of November next after such general election, for the purpose Canvassers. of canvassing the votes of all officers voted for at such election.

SEC. 24. The Secretary of State, Comptroller-General, Attorney-General, State Auditor, State Treasurer, Adjutant and Inspector-General and the Chairman of the Committee on Privileges and Elections of the House of Representatives, shall constitute the State Canvassers; four of whom shall be a sufficient number to form a Board.

Members of

SEC. 25. If a majority of these officers shall be unable, or shall fail to attend, the President of the Senate, being notified by the Secretary of

Quorum.

President of

State, shall attend without delay, and, with the officers attending, shall form a Board.

SEC. 26. The Board, when thus formed, shall, upon the certified copies of the statements made by the Board of County Canvassers, proceed to make a statement of the whole number of votes given at such election for the various officers, and for each of them voted for, distinguishing the several Counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper

names

To declare election.

Governor's Election.

Sec. 27. Upon such statements they shall then proceed to determine and declare what persons have been, by the greatest number of votes, duly elected to such offices, or either of them; they shall have power, and it is made their duty, to decide all cases under process or contest that may arise, when the power to do so does not, by the Constitution,

reside in some other body.

SEC. 28. That in case of a contest of the election of Governor, the Contest of General Assembly, by concurrent resolution, shall entertain the same. The Senate and House of Representatives shall each separately proceed to hear and determine the facts in the case, so far as they deem necessary, and decide thereon, who, according to the 10th Section of Article VIII of the Constitution, is entitled to be declared elected. If the two Senate and pranches of the General Assembly come to the same decision, they shall, House of Re- by concurrent resolution, declare who is duly elected, and entitled to enpresentatives ter upon and exercise the effect of C. presentatives ter upon and exercise the office of Governor; and such person thereupon

shall, upon taking the oath prescribed in the Constitution, be inducted

If the two branches of the General Assembly do not come

Non-concur- to the same decision, then a general election shall be called by the Govrence of both ernor, to take place in not less than sixty, nor more than ninety days, at

> fill the office of Governor. SEC. 29. They shall make and subscribe, on the proper statement, a or certificate of such determination, and shall deliver the same to the Secretary of State.

which the qualified electors shall proceed to vote for a suitable person to

delivered Secretary

Certificate

Branches.

SEC. 30. The Board shall have power to adjourn, from day to day, for

a term not exceeding ten days.

Adjournment Record Declaration.

SEC. 31. The Secretary of State shall record in his office, in a book nof to be kept by him for that purpose, each certified statement and determination which shall be delivered to him by the Board of State Canvassers, and every dissent or protest that shall have been delivered to him by a Canvasser.

SEC. 32. He shall, without delay, transmit a copy, under the seal of his office, of such certified determination to each person thereby declared to certifi- be elected, and a like copy to the Governor.

SEC. 33. He shall cause a copy of such certified statements and deter-Publication. minations to be printed in one or more public newspapers of this State.

SEC. 34. He shall prepare a general certificate, under the seal of the Certificate State, and attested by him as Secretary thereof, addressed to the House of Represent of Representatives of the United States in that Congress for which any United States. person shall have been chosen, of the due election of the person so chosen at such election as Representative of this State in Congress, and shall transmit the same to the said House of Representatives at their first meeting.

Secretary of State to fur-nish certificates.

SEC. 35. The Secretary of State shall enter in a book, to be kept in his office, the names of the respective County officers elected in this State, specifying the Counties for which they were severally elected, and their County Of place of residence, the office for which they were respectively elected, and cors elected. their term of office.

A. D. 1870.

Record of

SEC. 36. If any officer on whom any duty is enjoined in this Act shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding one year.

Neglect.

Penalty.

Sec. 37. The Commissioners of Elections shall receive, for their compensation, three dollars per day for their services while actually employed, and ten cents per mile for necessary travel; and the Managers shall receive two dollars per day while actually employed, and ten cents per mile for necessary travel; and the Clerks of the Commissioners, and the Clerks of the Managers, respectively, shall receive two dollars per day while actually employed: Provided, No Commissioner of Elections shall receive pay for more than ten days, and no Manager or Clerk for more than three days.

Compensa-

SEC. 38. At each general election suitable persons shall be chosen to fill any vacancy in any elective office in any County, of which at least fifteen days' previous notice shall be given by the proclamation of the Proclamation Governor.

Vacancy. Governor's

Sec. 39. All Acts or parts of Acts inconsistent with this Act, or in any way conflicting with the provisions of this Act, are hereby repealed. Approved March 1, 1870.

AN ACT to Provide for the Construction and the Keeping in No. 285. REPAIR OF PUBLIC HIGHWAYS AND ROADS.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and the authority of the same, That all able bodied male persons, and all male persons able to perform, or cause to be performed, the labor herein to perform larequired, between the ages of eighteen and forty-five years, shall be liable annually to perform such days labor on the public highways and roads as shall not exceed ten days, in one year, under the direction of the Commissioners of the County in which he shall reside: Provided, That if any person, being warned as hereinafter provided, shall pay to the County Treasurer of the County in which he may reside the sum of one dollar per day, after being notified by the County Commissioners, the same shall be received in lieu of such labor, and shall be applied by the said Commissioners to the construction and repair of highways and roads in the precinct to which they belong.

Who liable

Proviso.

SEC. 2. It shall be the duty of the Commissioners of each and every County Com-County in this State to order out every such person, resident as aforesaid, duty. between the first Monday in December and the first Monday in August, annually, to do and perform the work aforesaid on the public highways and roads in their respective Counties; and if any such resident, being personally warned by such Commissioners, or by having a written notice

missioner's

Refusal.

served at his place of residence, shall refuse or neglect, having had at least three days' notice, to attend by himself or substitute equally able to perform said duty as himself, or, having attended, shall refuse to obey the directions of the said Commissioners, shall, upon conviction thereof, be fined by the County Commissioners, in a sum not less than five nor more than fifteen dollars, the same to be collected as other judgments.

Fine.

other.

SEC. 3. In case any person shall remove from one County to another, Removal who has, prior to such removal, performed the whole or any part of the from one labor aforesaid, or in any other way has paid the whole or any part of the amount aforesaid in lieu of such labor, and shall produce a certificate of the same from the Commissioners of the proper County, such certificate shall be a complete discharge for the amount therein specified.

SEC. 4. Any person called upon to perform any labor upon the public Persons fur- highways and roads, under the provisions of this Act, shall by himself or and employ. substitute appear at the place appointed by the Commissioners at the ment. hour of eight o'clock in the forenoon, with such necessary tools and implements as the Commissioners may direct; and the Commissioners may, if necessary for the construction or repair of the highway or road, order any person owning the same to furnish a team of horses, mules or oxen, and wagon, cart, plow or scraper, to be employed and used upon the said highway or road under their direction.

Sec. 5. For the purposes provided for under the preceding Sections of What to be this Act, the residence of any person who has a family shall be held to be dence. where his family resides, and the residence of any other person shall be held to be where he boards, in any County in this State.

SEC. 6. In all cases a man, horse, plow and cart, shall be equivalent to three days' labor; a man, wagon and two horses shall be equivalent to five days' labor; and so in proportion for all teams and wagons used by and under the directions of said Commissioners. And the County Commissioners are hereby authorized to appoint Sub-Commissioners in each Township, to superintend the repairing of roads and highways in the different Counties of the State.

Sec. 7. That all Acts or parts of Acts, inconsistent with the provisions of this Act, be, and the same are hereby, repealed.

SEC. 8. That this Act shall take effect immediately after its passage.

Approved March 1, 1870.

No. 286. AN ACT TO REGULATE THE FEES OF PROBATE JUDGES, CLERKS OF COURTS, TRIAL JUSTICES AND MAGISTRATES, AND OTHER OFFICERS HEREIN MENTIONED.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the fees which Probate Judges, Clerks of Courts, Trial Justices and Magistrates, and the other officers herein mentioned, shall be authorized to receive in the several cases herein specified, respectively, shall be as follows:

Trial Justices and Jus-Peace.

Sec. 2. Trial Justices and Justices of the Peace:

Oath and warrant in any criminal case, fifty cents; each recognizance,

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fifty cents; commitment and release, each fifty cents; administering and certifying oath in writing, other than above, fifty cents; issuing writ of habeas corpus to two Justices jointly, two dollars; issuing summons and copy for defendant and civil cases, sixty cents; issuing summons for witness in any civil case, fifty cents; taking examination of witness in writing in any case, as prescribed by law, one dollar; for giving judgment on hearing litigated case, fifty cents; for giving judgment in case not defended, fifty cents; for issuing execution, or renewal of the same, fifty cents; report of case and taking bond to appeal, one dollar and fifty cents; for issuing attachment returnable to Court or Justice, including all notices, one dollar and fifty cents; for filing return of garnishee and order thereon, twenty-five cents; for proceedings in case of ejectment, five dollars; for approval of indentures of apprentices or servants, one dollar: for proceedings on Coroner's inquest, as prescribed by law, ten dollars; for proceedings on estray of horse or mule, one dollar; for proceedings on all other estrays, fifty cents; for taking and certifying renunciation of dower or inheritance, two dollars; for granting order for special bail, one dollar; for trial of any criminal case or misdemeanor, three dollars; for administering oath, twenty-five cents; for administering oath on affidavit, fifty cents; proceedings in case of bastardy, inclusive, five dollars.

SEC. 3. Notaries Public:

For taking deposition and swearing witness, per copy sheet, twenty-five Notaries Public. cents; for every protest, two dollars and twenty-five cents; for a duplicate of deposition, protest and certificate, per copy sheet, fifteen cents; for each attendance on any person to prove any matter or thing, and certifying the same, one dollar; for every notarial certificate, with seal affixed, one dollar; for administering an oath, twenty-five cents; for administering oath on affidavit, fifty cents; for taking renunciation of dower or inheritance, two dollars.

Sec. 4. Coroners:

For every inquisition, ten dollars; for mileage, going and returning, per mile, five cents; for each warrant issued, fifty cents; for each commitment, fifty cents; for each recognizance, seventy-five cents; for each body disinterred, three dollars; for recording proceedings in each inquisition in his book, per copy sheet of one hundred words, fifteen cents; for performing the duties of Sheriff, the same fees as are allowed Sheriffs for like services.

Sec. 5. Witness:

In civil cases, per day, one dollar; in State cases, per day, one dollar and fifty cents, besides mileage at five cents per mile, going and returning.

Sec. 6. Jurors:

Jurors, per day, one dollar and fifty cents, besides mileage at five cents per mile, going and returning.

SEC. 7. Constables:

For summoning witness in civil case, fifty cents; for serving summons, Constables. rule or notice in any civil case, fifty cents; for serving attachment on each person, one dollar; for levying execution, posting advertisements of sale, and paying over proceeds, besides commission of three per cent. on amount collected, to be paid by the department in execution, fifty cents; for every day in search of stolen goods, to be paid by Complainant, two 51

A. D. 1870.

Fees.

Coroners.

Fees.

Witness. Fees.

Jurors.

Fees.



three dollars; for transportation of prisoners to County jail, ten cents per

Sheriffs.

Fees.

A. D. 1870. dollars; for serving a warrant in any State case, one dollar; for selling an estray, five per centum of the proceeds, and in all cases for all actual and necessary travel one way, to be certified by the officer on the back of the process, in writing, five cents per mile; for all necessary service in case of ejectment, as well before as after judgment, five dollars; for summoning Coroner's Jury, and witnesses, to be paid by the County,

mile, to be paid by the County.

Sec. 8. Sheriffs:

For entering every writ, process, warrant or execution, and making endorsements thereon, fifty cents; for serving every writ or summons, besides mileage, one dollar; for bond in any case, one dollar and fifty cents; for commitment and release, each fifty cents; for serving each venire for Grand Jury, ten dollars; for serving each venire for petit jury, twenty dollars; for serving each bench or other warrant in the sessions, attachment for contempt of Court, besides mileage, each one dollar and fifty cents; search for person or goods not found and returned on the execution non est inventus or nulla bona, besides mileage, one dollar; levy attachment or other execution, besides mileage, one dollar and fifty cents; dieting persons, per day, forty cents; executing convict, including all charges for burial and other expenses, twenty-five dollars; bringing up prisoner under habeas corpus, to be paid by the prisoner, if able, (if not, by the County,) besides mileage, two dollars; conveying prisoner from one place to another, besides all necessary expenses, and returning, ten cents; each guard for Sheriff, in conveying prisoner, two dollars per day; commissions on all moneys collected by him, if under three hundred dollars, two per cent.; if over that sum, two per cent. on the first three hundred dollars, and one per cent on balance; one-half of one per cent. on all moneys paid out of office on all executions lodged; execution lodged to bind, with order not to levy, one dollar; advertising Defendant's property, in addition to printer's bill, one dollar; drawing deed or mortgage, three dollars; bill of sale, one dollar and fifty cents; each notice served on set of Managers of Election, besides mileage, one dollar and fifty cents; in case of ejectment, and ejecting tenant or others, five dollars; summoning Coroner's jury and witnesses, to be paid by the County, five dollars.

Sec. 9. Clerks of Court:

Clerks Courts.

Fees.

For signing and sealing sub. writ, State cases, fifty cents; for adminisor tering oath, twenty-five cents; for taking and filing bonds in attachment, trover and other cases, one dollar and fifty cents; signing and sealing commissions to examine witness, one dollar; recording plat under order of Court, one dollar; rule of survey, one dollar; each official certificate under seal, fifty cents; issuing writ of attachment for contempt, or other special writ, one dollar and fifty cents; signing and sealing writ of hab. fac. possessionem, one dollar; receiving and paying over money officially, under three hundred dollars, two per cent.; over that amount, one per cent; on bill nol. pros., before given out, two dollars; on bill thrown out by Grand Jury, or found, and nol. pros. abated, discontinued or struck off, three dollars; on bill found and verdict by petit jury, four dollars; issuing bench warrant, two dollars; issuing scire facias, two dollars; issuing each execution in Sessions, two dollars; signing and sealing writ of habeas corpus, three dollars; issuing warrants, taking recognizance or other services in the Sessions, the same fees as allowed to Trial Justices;

each writ of venire facias, including all services incident to summoning jurors, two dollars and fifty cents; preparing and issuing certificates for grand and petit jurors, and Constables, and furnishing return to County Commissioners, for each week of every term of the Court, ten dollars; furnishing advertisement in case of escheat, exclusive of printer's bill, and recording proceedings thereon, five dollars; for advertising and giving notice to Managers of Elections, in case of approaching or actual vacancy in any County office, each ten dollars; for license to an attorney, all incidental services included, five dollars; filing and entering notice of alien's intention to become a citizen, one dollar; filing and recording report of alien, one dollar; administering oath of intention, one dollar; filing and entering application to become a citizen and administering oath, two dollars; for giving certificate of citizenship, one dollar; taking renunciation of dower or inheritance, two dollars; for official record of estray and filing papers, one dollar and fifty cents; every search for a paper, fifteen cents; every search, with certificates, fifty cents; swearing Magistrate or Constable in office, and certificate thereof and taking bonds, two dollars; for recording bonds of County officers and certifying to same, one dollar and fifty cents; granting license to pedlars, including all services, five dollars; for every probate in writing, twenty-five cents; for signing dedimus potestatem, two dollars; for official certificate to exemplification of record, one dollar; for official certificate in case requiring seal, fifty cents; on every trial, from the party bringing it on, two dollars; on filing transcript, twenty-five cents; on entering judgment, fifty cents; copy papers, per copy sheet of one hundred words, twenty-five cents; signing and sealing each execution and renewal, fifty cents; for recording and copying deeds or other papers, per copy sheet of one hundred words, twenty-five cents; for every

SEC. 10. Judges of Probate:

certificate on deeds or other papers, twenty-five cents.

For petition for letters, &c., two dollars; for citation, one dollar; qualifying executor, administrator or guardian, issuing letters and recording same, four dollars; taking bond of administrator or guardian, and recording same, two dollars and fifty cents; issuing warrant of appraisement, one dollar; proving will in common form, two dollars; proving will in solemn form, ten dollars; for recording wills and certificates, per copy sheet of one hundred words, each figure counting a word, twenty-five cents; filing and entering renunciation of executor, one dollar; dedimus potestatem to prove will or qualify executor, two dollars and fifty cents; recording inventories, appraisements and sales, per copy sheet of one hundred words, each figure a word, twenty-five cents; receiving, examining and filing annual returns, two dollars.

For first and final return, each three dollars and fifty cents; for recording returns, per copy sheet of one hundred words, twenty-five cents; order for sale personal property, one dollar and fifty cents; hearing and filing petition for guardians and appointment, five dollars; entering caveat and withdrawing same, one dollar; for hearing litigated case, five dollars; issuing summons, for each witness, fifty cents; qualifying and examination of each, twenty-five cents; for proceedings in partition of real estate worth less than one thousand dollars, fifteen dollars; for appointing guardians ad litem, three dollars; for proceedings in partition of real estate worth more than one thousand dollars, thirty dollars; commissions on all moneys received and paid out, two per cent. on the first three hun-

Judges Probate.

dred dollars, and one per cent. for all sums over that amount; for search for each paper, fifteen cents; for certificate and seal, fifty cents; for copying papers on file in office, per copy sheet of one hundred words, twentyfive cents; for final discharge of executor, administrator or guardian, two dollars; for proceedings in dower, inclusive of all charges, twenty dollars; for proceedings in lunacy, inclusive, five dollars.

Approved March 1, 1870.

No. 287. AN ACT TO INCORPORATE THE COOPERS' TRADES-UNION, OF CHARLES-TON.

Corporators.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That A. R. Mitchell, A. F. Gregorie, Edward Jones, James Chapman, and such other persons as may now, or hereafter shall be, associated with them, are hereby made and declared to be a body politic and corporate by the name and style of the Coopers' Trades-Union, of Charleston.

privileges.

SEC. 2. That said Coopers' Trades-Union, of Charleston, shall have Powers and succession of officers and members according to its by-laws, and shall have power to make by-laws, not repugnant to the laws of the land, and to have, use and keep a common seal, and the same to alter at will, to sue and be sued, plead and be impleaded, in any Court in this State. It is hereby empowered to retain, possess, and enjoy all such property, real and personal, as it may possess or be entitled to, or which shall hereafter be given, bequeathed to, or in any manner acquired by it, and to sell, alien, or transfer the same.

SEC. 3. That this Act shall be a public Act, and continue in force for

the term of twelve years from the date of its ratification.

Approved March 1, 1870.

No. 288. AN ACT TO DEFINE THE CRIMINAL JURISDICTION OF TRIAL JUSTICES.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authortiy of the same, That Trial Justices shall have and exercise within their respective Counties all the powers, authority and jurisdiction, in criminal cases, hereinafter set forth.

\$100.

Sec. 2. Trial Justices shall have jurisdiction of all offences which may Penalties be subject to the penalties of either fine or forfeiture not exceeding one not exceeding hundred dollars, or imprisonment in the Jail or Work House not exceeding thirty days, and may impose any sentence within those limits, singly or in the alternative.

battery.

SEC. 3. They may punish by fine not exceeding one hundred dollars, Assault and or imprisonment in the Jail or House of Correction not exceeding thirty days, all assault and batteries, and other breaches of the peace, when the offence is not of a high and aggravated nature, requiring, in their judgment, greater punishment.

SEC. 4. They may cause to be arrested all affrayers, rioters, disturbers Rioters, &c.

and breakers of the peace, and all who go armed offensively, to the terror of the people, and such as utter menaces or threatening speeches, or

otherwise dangerous and disorderly persons.

Persons arrested for any of said offences shall be examined by the Trial Justice before whom they are brought, and may be tried before him, and, if found guilty, may be required to find sureties of the peace, and be punished within the limits prescribed in Section 2, or, when the offence is of a high and aggravated nature, they may be committed or bound over for trial before the Court of General Sessions.

SEC. 5. They shall have jurisdiction of larcenies, by stealing of the property of another, of money, goods or chattels, or any bank note, bond, promissory note, bill of exchange, or other bill, order or certificate; or any book of accounts for or concerning money or goods due, or to become due, or to be delivered; or any deed or writing containing a conveyance of land or any other valuable contract in force; or any receipt, release or defeasance; or any writ, process or public record, if the property stolen does not exceed twenty dollars in value.

SEC. 6. They shall have jurisdiction of the offences of buying, receiving or aiding in the concealment of stolen goods or other property, where they would have jurisdiction of the larceny of the same goods or prop-

erty.

SEC. 7. They shall have jurisdiction of the offences of obtaining property by any false pretence, or by any privy or false token, or by any game, device, slight of hand, pretensions to fortune telling, trick or other means, by the use of cards or other implements or instruments, where they would have jurisdiction of a larceny of the same property, and may punish said offences the same as larceny.

Sec. 8. They shall cause to be arrested all persons, found within their Counties, charged with any offence, and persons who, after committing any offence within the County, escape out of the same; examine into treasons, felonies, grand larcenies, high crimes and misdemeanors; and commit or bind over for trial those who appear to be guilty of crimes or offences not within their jurisdiction, and punish those guilty of such offences within their jurisdiction.

SEC. 9. All proceedings before Trial Justices, in criminal cases, shall be commenced on information, under oath, plainly and substantially set- commence. ting forth the offence charged, upon which, and only which, shall a war-

rant of arrest issue. The information may be amended at any time before trial.

All proceedings before Trial Justices shall be summary, or with only

such delay as a fair and just examination of the case requires.

SEC. 10. Every person arrested and brought before a Trial Justice charged with an offence within his jurisdiction, shall be entitled, on de-ry. mand, to a trial by jury, to be selected in the manner indicated by Section 6 of the Act entitled "An Act to provide for the temporary appointment of Magistrates, and to define their powers and duties," ratified 24th day of September, A. D. 1868.

SEC. 11. Trial Justices are authorized to issue all necessary processes to carry their powers into effect, and may exercise all the powers hereto-

fore conferred by law upon Magistrates.

SEC. 12. Every person convicted before a Trial Justice of any offence whatever, and sentenced, may appeal from the sentence to the next term A. D. 1870.

Suretics.

Larceny.

Stolen Goods.

False

Appeal.

of the Court of General Sessions for the County. The appellant shall be committed, to abide the sentence of said Court, until he recognizes to the State in such reasonable sum, and with such sureties, as the Court requires, with condition to appear at the Court appealed to, and at any subsequent term to which the case is continued, if not previously surrendered and discharged, and so, from term to term, until the final decree, sentence or order of the Court thereon; and to abide such final sentence, order or decree, and not depart without leave; and, in the meantime, to keep the peace, and be of good behavior.

Sec. 13. All Acts and parts of Acts inconsistent or supplied by this

Act are hereby repealed.

Approved March 1, 1870.

No. 289. AN ACT to Authorize Trustees to Invest Funds in the Bonds of the State of South Carolina.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Guardians, Trustees, Administrators, Executors, Probate Judges, and Clerks of Courts, and all other persons holding funds in trust for investment, are hereby authorized to invest the same in bonds of the State of South Carolina. And they are hereby relieved from all responsibility for said investment, except for the safe keeping of the bonds: Provided, That as to officers of the Court, there be no order of the Court directing a different investment.

Approved March 1, 1870.

No. 290. AN ACT to Fix the Per Diem and Mileage of the Members of the General Assembly.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the members of the next General Assembly shall receive the same mileage and per diem as now allowed the members of the present General Assembly by the provisions of the Constitution of this State, as ratified by the people on the 14th, 15th and 16th days of April, 1868.

Approved March 1, 1870.

No. 291. AN ACT TO INCORPORATE THE COMET. LIGHT INFANTRY, AND THE RANDOLPH RIFLEMEN, BOTH OF THE CITY OF CHARLESTON, AND, ALSO, THE LINCOLN GUARDS, OF SAINT STEPHENS, AND THE SANTEE NATIONAL GUARDS.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Ascorporators. sembly, and by the authority of the same, That Samuel Dickerson, P. L.

dens.

Miller, J. J. Young, Samuel E. Gilliard and Robert H. Hamilton, under the name and style of the "Comet Light Infantry;" and that W. H. Mishaw, R. B. Artson, T. E. Dixon and J. D. Robinson, under the name and style of the "Randolph Riflemen;" and, also, that Wm. R. Jervay, Julius Tingman, Brutus Butler, Margan Sabb, J. M. Gillins and Thomas Singleton, under the name and style of "The Lincoln Guards;" and W. G. Pinckney, Matt. Blake and Prince Wethers, by the name and style of "The Santee National Guards," and their successors and associates, be, and they are, respectively, incorporated and made and declared a body politic and corporate, in deed and in law, and, as such body politic, shall, each one of them, have the power to use and keep a common seal, and the same at will to alter, to make all necessary by-laws, not repugnant to the laws of the land, and to have succession of officers and members, conformable to such by-laws, to sue and be sued, plead and be impleaded, in any Court of Law or Equity in this State, and to have, use and enjoy all other rights, and be subject to all other liabilities, incident to bodies corporate.

A. D. 1870.

Powers and

SEC. 2. That this Act shall be deemed and taken to be a public Act, and shall continue in force for the space of fourteen years from and after its passage.

Approved March 1, 1870.

AN ACT TO RENEW AND AMEND THE CHARTER OF THE TOWN OF Walterboro.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passage of this Act, all citizens of this State, having resided sixty days in the town of Walterboro, shall be deemed, and are hereby declared to be a body politic and corporate; and the said town shall be called and known by the name of Walterboro, and its corporate limits shall extend one mile in each direction from the Saint Jude's Episcopal Church, in said town.

Limits.

Sec. 2. That the said town shall be governed by an Intendant and six Wardens, who shall be citizens of the United States, and shall have been residents of the said town for sixty days immediately preceding their election; who shall be elected on the second Monday in January in every year, ten days' public notice thereof being previously given; and that all male inhabitants of the age of twenty-one years, citizens of the State, and who shall have resided in the said town for sixty days immediately preceding the election, shall be entitled to vote for said Intendant and War-

Government.

No. 292.

Sec. 3. That the election for Intendant and Wardens of the said town shall be held in the court house, or some other convenient public place in the said town, from nine o'clock in the morning until five o'clock in the afternoon; and when the polls shall be closed, the Managers shall forthwith count the votes and proclaim the election, and give notice, in writing, to the persons elected. The Intendant and Wardens shall appoint three Managers to hold the ensuing and subsequent election. Whenever there shall not be an Intendant and Wardens, or Intendant

Election of

Oath of of-

and Warden, from any cause whatever, it shall be the duty of the Clerk of the Court for Colleton County to order such election forthwith, and appoint three Managers for the same. The Managers in each case shall, before they open the polls for said election, take an oath fairly and impartially to conduct the same. And that the Intendant and Wardens, before entering upon the duties of their respective offices, shall take the oath prescribed by the Constitution of this State, and also the following oath, to wit: "As Intendant (or Warden) of the town of Walterboro, I will equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected. So help me God." The said Intendant and Wardens shall hold their office from the time of their election until the second Monday in January ensuing, and until their successors shall be elected and quali-

Vacancies.

Sec. 4. That in case a vacancy shall occur in the office of the Intendant, or any of the Wardens, by death, resignation, removal, or otherwise, or in case of a tie in said election, an election to fill such vacancy shall be held by the appointment of the Intendant and Warden, or Wardens, as the case may be, or the Clerk of the Court of Colleton County, if there shall be no Intendant or Wardens, ten days' public notice thereof being previously given; and in case of the sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their number to act in his stead during the time.

SEC. 5. That the Intendant and Wardens duly elected and qualified

Jurisdiction shall, during their term of service, severally and respectively, be vested with all the jurisdiction and powers of Magistrates within the limits of the said town. And the Intendant shall and may, as often as he may deem necessary, summon the Wardens to meet in Council, any two of whom, with the Intendant, may constitute a quorum to transact business; and they shall be known by the name of the Town Council of Walterboro, and they and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all the ordinances. And the said Town Council shall have authority to appoint, from time to time, as they see fit, such and so many proper persons to act as Marshals or Constables of the said town, as the said Town Council may deem necessary and expedient for the preservation of the peace, good order and police thereof, which persons, so appointed, shall, within the corporate limits of said town, have the power, privileges and emoluments, and be subject to all the obligations, penalties and regulations provided by law for the office of Constable, and shall be liable to be removed at the pleasure And the said Town Council shall have power to of the said Council. establish, or to authorize the establishment of the market house in said And the said Town Council shall have full power and authority, under their corporate seal, to make all such rules, by-laws and ordinances, respecting the streets, roads, market house, and the business thereof, and the police system of the said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for preserving health, order and good government within the same. And the said Jurisdiction. Town Council may impose fines for offences against their by-laws and ordinances, and appropriate the same to the public use of said town; and

the said Council shall have the same power which Magistrates now have

By-Laws.

to compel the attendance of witnesses, and requiring them to give evidence upon the trial before them of any person for a violation of any of their by-laws or ordinances; but no fine above the sum of twenty dollars shall be collected by the said Council, except by suit in the Court of Common Pleas: And provided, also, That no fine shall exceed fifty dollars; and, also, that nothing herein contained shall authorize the said Council to make any by-laws or ordinances inconsistent with or repugnant to the laws of this State; and all the by-laws, rules and ordinances the said Council may make, shall, at all times, be subject to revisal or repeal

by the General Assembly of this State.

SEC. 6. That the said Intendant and Wardens shall have full power to abate and remove nuisances in the said town; and it shall be their duty to keep all roads, ways and streets within the corporate limits of the said town open and in good repair; and for that purpose they are invested with all the powers heretofore granted to Commissioners of Roads; and shall have full power to classify and arrange the inhabitants of said town liable to street, road or other public duty therein, and to force the performance of such duty under such penalties as are now, or shall hereafter be, prescribed by law: Provided, That the said Town Council may compound with persons liable to perform such duty upon such terms, and on the payment of such sums as may be established by laws or ordinances. And, provided, also, That the individuals who compose the said Town Council shall be exempt from the performance of road and police duty, and the inhabitants of said town are hereby exempt from road and police duty without the corporate limits of said town.

SEC. 7. That the power to grant or refuse license for billiard tables, to keep tavern, or to retail spirituous liquors within the limits of the said corporation, be, and the same is hereby, vested in the Town Council of Walterboro, and the said Council may grant licenses to retail spirituous liquors to such persons, and in such quantities, at such rates, and upon such terms and conditions as the said Council may deem fit and proper; and the parties to whom such licenses are granted shall be subject to such regulations as may, by ordinance, be established; and the said Intendant and Wardens shall have the full and only power to impose a tax on all shows or exhibitions for gain or reward, within the limits. money paid for retailing spirituous liquors, keeping tavern and billiard tables, and the tax on all shows for gain or reward, within the said limits, shall be appropriated to the public use of said corporation.

SEC. 8. That the said Town Council of Walterboro shall have power and authority to require all persons owning a lot or lots in said town, to side-walks. make and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any of the public streets of said town, if, in the judgment of the Council, such sidewalks shall be necessary; the width thereof, and the manner of their construction, to be designated and regulated by the Town Council; and for default or refusal to make and keep in repair such sidewalks, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing: Provided, That such contracts for making or repairing

be let to the lowest bidder.

SEC. 9. That the said Town Council of Walterboro shall have power Commitment to arrest and commit to jail, for a space of time not exceeding twenty-four to Jail. hours, and to fine not exceeding twenty dollars, any person or persons who 52

A. D. 1870.

Police.

Proviso.

Licenses.

Repairing

shall be guilty of disorderly conduct in said town, to the annoyance of citizens thereof; and it shall be the duty of the Marshal of the town to make such arrest, and to call to his assistance the posse comitatus, if necessary, and upon failure to perform such duty he shall be fined in a sum not exceeding twenty dollars for each and every offence.

SEC. 10. That the said Town Council of Walterboro shall have power to grant or refuse license to parties within the limits of said town, and the parties to whom such licenses are granted shall be subject to such regula-They shall also have power tions as may by ordinance be established. to impose and collect an annual tax upon the assessed property of said town, as assessed by the County Assessor, the County Auditor to furnish the Town Clerk with a duplicate list of town property: Provided, No tax shall be imposed in any one year to exceed the rate of ten cents on each hundred dollars of such assessed property, and that the money so raised shall be applied to the use of said town. The said Town Council shall have the power to enforce the payment of all taxes levied by the said Town Council, to the same extent and in the same manner as is now or hereafter shall be provided by law for the collection of the general State taxes.

tion.

Sec. 11. That the said Town Council of Walterboro shall have power sales at avc- to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: Provided, Nothing herein contained shall extend to sales by a Sheriff, Clerk of the Court, Judge of Probate, Coroner, executor or administrator, assignee in bankruptcy, or by any other person out of the order, decree of any Court, Justice of the Peace or Magistrate.

SEC. 12. That this Act shall be deemed a public Act, and shall continue of force for twenty years, and till the end of the session of the General Assembly of said State then next following, and all Acts of incorporations, or amendments thereof, repugnant hereto, are hereby repealed.

Approved March 1, 1870.

No. 293. AN ACT TO REGULATE THE ASSESSMENT AND TAXATION OF PERSONAL PROPERTY IN THE CITY OF CHARLESTON.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act entitled "An Act providing for the assessment and taxation of property," approved the 15th day of September, A. D. 1868, be, and the same is hereby, extended, so far as the same is applicable, to the city of Charleston, for the purposes of assessment and taxation of the personal property, taxable in said city for municipal purposes, and the same shall be the rule of the City Council of Charleston in assessing personal property, and levying a tax thereon in said city, with such modifications as are hereinafter provided.

Sec. 2. Such returns of personal property for taxation as are in said Returns of Act required to be made to the State and County Auditor, shall be made at such times, and to such officer or officers, as the City Council by ordi-

nance shall direct.



perty.

SEC. 3. The assessment of personal property, pursuant to said Act, and the levy of taxes thereon, shall be made by such officer or officers, and at such time or times, as the City Council shall by ordinance direct.

A. D. 1870. Assessment.

SEC. 4. The penalties for neglect to make returns, for false returns, and False Returns for non-payment of taxes, denounced in said Act, and the mode of procedure to obtain returns, and correct false returns, shall be enforced by such officer or officers, and at such time or times, as the City Council shall direct.

Penalty.

SEC. 5. The sale of property for unpaid taxes, real or personal, shall be made at such times and such places, and by such officer or officers, as the City Council may direct.

Sale.

SEC. 6. The collection of all taxes laid, levied, and licenses imposed, by the City Council of Charleston, for municipal purposes, shall be made by such officer or officers, and at such time or times, as the City Council may direct.

Collection Licenses.

Sec. 7. The City Council of Charleston is hereby authorized to require the payment of such sum or sums of money, not exceeding five hundred dollars, for license or licenses, as in their judgment be just and wise, by any person or persons engaged, or intending to be engaged, in any calling, business or profession, in whole or in part, within the limits of the city of Charleston, except those engaged in the calling or profession of teacher of public or private schools and ministers of the Gospel: Provided, That no distinction shall be made on account of race or color.

Exceptions.

Sec. 8. The City Council of Charleston shall appoint a Board of Equalization, consisting of five citizens, to continue in office during pleasure, or may itself act as such, for the purpose of equalizing the personal property, moneys and credits in said city, pursuant to the said Act

Board of Equalization.

SEC. 9. An appeal from any assessment, made by any officer or officers authorized to make the same, may be had within such time as may be prescribed by the City Council of Charleston, and to said City Council, or to such Board as they may appoint for that purpose, who shall hear and determine the appeal, and whose decision shall be final.

Appeal.

SEC. 10. The City Council of Charleston is authorized to pass any ordinance necessary to carry the intent and purpose of this Act into full effect.

Approved March 1, 1870.

AN ACT TO INCORPORATE A HOME FOR INVALID CLERGYMEN.

No. 294.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That John H. Cornish, Wm. H. Clark, Morelle Fowler, Amory Coffin, M. D., H. W. Ravenel, George W. Rose, and their successors, are hereby constituted a body corporate and politic, by the name and title of a Home for Invalid Clergymen, and by that name may sue and be sued, plead and be impleaded, in all Courts of Law and Equity in this State, have a common seal, and the same to alter at pleasure, and may have and enjoy every right and privilege incident to

Corporators.

STATUTES AT LARGE

A. D. 1870. Powers and privileges.

corporations, according to the laws of South Carolina. The business of said corporation shall be the constructing, keeping and maintaining a Home for Invalid Clergymen of the Protestant Episcopal Church, and others, in the town of Aiken, or in such other location in the State of South Carolina as they may select, and to do generally all such business as said corporation may deem necessary and requisite in conducting a Home for Invalid Clergymen and others; and that the said corporation shall have power and capacity to take, purchase, hold and convey property, real and personal, not exceeding in value one hundred thousand dollars.

Vacancies.

their bonds.

Officers-

SEC. 2. The members of said corporation, for the time being, or a majority of them, shall have power to fill any vacancy which may happen by death, resignation or otherwise, to appoint a Secretary and Treasurer, and such other officers as may be necessary; and may require the Treasurer and other officers to give bonds for the faithful discharge of their trusts and duty as said corporators may deem proper; and also to make and establish such by-laws, rules and regulations as they shall deem expedient for the management of the affairs of said corporation, and the same to alter and repeal: Provided, The same be not inconsistent with the laws of this State and the United States.

SEC. 3. The books of said corporation, containing their accounts, shall at all reasonable times be open for the inspection of any of the Bishops of the Protestant Episcopal Church, or any persons appointed by them or any one of them for that purpose.

Sec. 4. This Act shall continue and be in force for the term of ninety-

nine years.

Approved March 1, 1870.

No. 295. AN ACT TO ENFORCE A UNIFORM SYSTEM OF ASSESSMENT AND TAXA-TION BY MUNICIPAL BODIES.

Preamble.

Whereas, it is provided by Section 1, Article IX, of the Constitution, that the General Assembly shall provide by law for an uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, the proceeds of which alone shall be taxed, and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious or charitable purposes; and

Whereas, it is provided by Section 8 of the same Article, that the corporate authorities of Counties, townships, school districts, cities, towns and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform, in respect to persons and property, within the jurisdiction of the body imposing the same. And the General Assembly shall require that all the property, except that heretofore exempted within the limits of municipal corporations, shall be taxed for the payment of debts contracted under authority of law; and

Whereas, it is further provided by Section 2, Article XII, of the Constitution, that the property of corporations now existing or hereafter

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created, shall be subject to taxation, except in cases otherwise provided

for in this Constitution; therefore,

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all municipal corporations Corporations. created under or by the laws of this State, and vested with power to lay and collect taxes, are hereby authorized and required to assess all prop- Uniform rate. erty, real and personal, within their corporate limits, at its actual value, and lay all taxes thereon at a uniform and equal rate: Provided, That all property, and no other, exempted from taxation by the third Section of the Act entitled "An Act to provide for the assessment and taxation of property," ratified the 15th day of September, A. D., 1868, shall be exempted from taxation by municipal corporations.

Sec. 2. That all Acts or parts of Acts inconsistent with this Act be,

and the same are hereby, repealed.

Approved March 1, 1870.

A. D. 1870.

Municipal

Proviso.

No. 296. AN ACT TO AID AND ENCOURAGE COTTON AND WOOLEN MANUFAC-TURES IN THIS STATE.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That for the purpose of inducing the state to pay investment and employment of capital in the manufacture of cotton and annually certain smooths. woolen fabrics in this State, any individual, or association of individuals, who shall hereafter invest capital in the manufacture of cotton or woolen fabrics in this State, shall be entitled to receive from the Treasury of the State, annually, a sum of money equal to the aggregate amount of State taxes, which shall be laid and collected upon the property, or capital employed directly and exclusively in such manufactures, the said sum of money to be fixed and determined by the Auditor of the State, in accordance with the tax returns, and to be paid by the Treasurer on the warrant of the Comptroller-General.

Treasurer of tain amounts.

Auditor to determine.

Conditions.

SEC. 2. That it shall be the duty of all County Treasurers, and of the Treasurers of Treasurers of all Municipal Corporations, which are by law authorized to corporations to levy taxes. levy taxes, to pay to the individuals, or association of individuals, described in the first Section of this Act, a sum of money annually equal to the aggregate amount of County or municipal taxes laid and collected during any year upon the capital described in the first Section of this Act.

SEC. 3. That the provisions of the first Section of this Act shall apply exclusively to investments made hereafter, and shall not operate in any manner until satisfactory evidence shall be presented to the Auditor of the State, that the capital for which the benefits of this Act are claimed has been actually paid in and invested in this State.

Sec. 4. That the provisions of this Act shall be of force for a period

not more than four years.

Approved March 1, 1870.

A. D. 1870. AN ACT TO INCORPORATE CERTAIN FIRE ENGINE AND HOOK AND

No. 297.

De Kalb.

Washington,

Bamberg.

Beaufort,

Union.

Camden.

Greenville.

Lincoln, No. 3.

Rights, pow-ers and privileges.

LADDER COMPANIES.

Section 1. Be it enacted by the Senate and House of Representatives

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That William Deas, Wyatt Nandin, James Timbus, Richard Price, Henry Mitchell, George McLean, Wm. S. Hammond, by the name and style of the DeKalb Fire Engine Company, of the town of Camden; that James E. McGregor, M. S. Elliott, Nelson

R. Scold, by the name and style of the Washington Fire Engine Company, No. 2, of the town of Beaufort; and that the members of the corporation known as the Bamberg Fire Engine Company, of the town of Bamberg, by the name and style of the Bamberg Fire Engine Company, of the town of Bamberg; that P. Abraham Jenkins, G. Parker, D.

Richards and C. Campbell, by the name and style of the Hook and Ladder Company, No. 1, of the town of Beaufort; and Isaac J. Cohen, Wm. Mitchell, R. W. Butler, by the name and style of the Union Fire Engine Company, No. 1, of the town of Beaufort; that Isaac McLauchlin, Edward J. Carter, Ammon Reynolds, John A. Chestnut, Wm. Timbus, by the name and style of the Camden Hook and Ladder Company, of the town of Camden; that W. K. Easley, T. Q. Donaldson, V. E. McBee, Wm. H. Perry, J. M. Scott, G. G. Wells, W. E. Earle, J. Cagle, G. B.

and Ladder Company, of the town of Greenville; that Geo. Williams, Isaac Crisbund, Charles Green, by the name and style of the Comet Fire Orangeburg. Engine Company, of the town of Orangeburg; that Abraham Marks, Sip. Timbers, Thos. Crews, Joseph Reed, Peter Ramsey, by the name and style of the Lincoln Fire Engine Company, No. 3, of the town of Cam-

Poor and Samuel Stradley, by the name and style of the Greenville Hook

den; that K. Hall, T. B. Wright, B. B. Sams, by the name and style of the New York Hose Company, No. 1, of the town of Beaufort, and their associates and successors in office, be, and they are hereby, created and constituted bodies corporate and politic, by and under the names and styles aforesaid, with a capital stock not to exceed the sum of ten thousand dollars, with the right to sue and be sued, plead and be impleaded, in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure, and with all other rights, privileges and immunities that are now, or hereafter may be, secured by law to like incorporated bodies.

SEC. 2. That this Act shall be deemed a public Act, and shall remain in force for a term of fourteen years.

Approved March 1, 1870.

AN ACT to Repeal an Ordinance Entitled "An Ordinance to No. 298. PREVENT THE ERECTION OF WOODEN BUILDINGS, AND TO PROVIDE GREATER SECURITY AGAINST FIRES," AND ALSO CERTAIN PORTIONS OF THE ACTS OF THE GENERAL ASSEMBLY REFERRING TO THE EREC-TION OF WOODEN BUILDINGS IN THE CITY OF CHARLESTON.

> SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly,

Public Domain, Google-digitized Approved March 1, 1870.

That an Ordinance entitled "An and by the authority of the same, Ordinance to prevent the erection of wooden buildings and to provide greater security against fires," passed by the City Council of Charleston, and ratified the eighth day of May, in the year of our Lord one thousand eight hundred and thirty-eight, and such Sections in the Act of the General Assembly entitled "An Act for rebuilding the City of Charleston" as prohibits the erection of wooden buildings within its corporate limits, ratified on the first day of June, in the year one thousand eight hundred and thirty-eight, together with such provisions of an Act entitled "An Act to amend the laws in relation to the erection of wooden buildings in the City of Charleston," ratified December the twentieth, in the year one thousand eight hundred and fifty-six, as are amendatory of the Ordinance first above mentioned, be, and the same are hereby, repealed, except as to such portions of the said City of Charleston as are hereinafter de-ties. scribed, to-wit: All lots abutting on the west side of King street, from South Bay to Calhoun street, and all rear lots, the entrance to which are on said west side of King street; all that territory lying on the east side of King street, and north of South Bay street, and extending northerly as far as Society street, and to Cooper River on the east, excepting such made, marsh, mud or water lots as may be located north of Market street and east of East Bay street; also, all that territory lying east of King street running northerly to Calhoun street, commencing at Society street, and easterly to Anson street; all lots abutting on the east side of Anson street from Calhoun to Society street, including all rear lots with entrances on said Anson street; all lots abutting on the north side of Society street, from Anson street, running east to Cooper River, including all rear lots with entrances on said Society street: Provided, That every wooden building to be erected on any part of the lots or territory south of Calhoun street exempted from the operation of the Ordinances of said city, and Acts of the General Assembly preventing the erection of wooden buildings, by this Act mentioned, shall be not less than two stories in height, and that all the inner walls of said buildings, including all partitions and ceilings, shall be lathed and plastered: And provided, viso. further, That said buildings shall be covered with slate, tin, tiles, or some other materials not combustible. Any person or persons who shall erect any buildings on any of the lots or territory described in the first provision of this Section as exempt from the operation of the Ordinances of said City, and Acts of the General Assembly, preventing the erection of wooden buildings contrary to any of the provisions of this Act, upon proof to conviction, shall be fined in the sum not less than three hundred nor more than six hundred dollars: And provided, further, That nothing in this Act shall be construed as repealing any portion of an Ordinance entitled "An Ordinance to regulate the erection of steam engines and machinery propelled by steam within the city," passed by the City Council of Charleston, and ratified the eleventh day of January, in the year of our Lord one thousand eight hundred and forty-five.

Sec. 2. All Acts or parts of Acts, Ordinances or parts of Ordinances, inconsistent with this Act are hereby repealed.

A. D. 1870.

Repeal.

Exception of certain locali-

Description.

Proviso.

Further pro-

A. D. 1870. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ORGANIZE THE CIRCUIT COURTS." No. 299.

Time of holding Sp. Sessions. Special

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act entitled "An Act to organize the Circuit Courts," ratified the 20th day of August, A. D. 1868, be amended in the 12th Section as follows, viz: Change the first sentence in said Section so as to read: The several Circuit Judges shall have power, in their discretion, to hold special sessions of the Circuit Courts, within their respective Circuits, or upon the order of the Chief Justice, in any Circuit, of which the Judge presiding shall give such notice as the Chief Chief Justice Justice may direct, or as may, in his judgment, be necessary, should no directions be given.

SEC. 2. That all writs and processes issued, or that may be issued, returnable to any Court established by law, which may have been, or be afterwards changed, as to the time of holding its sessions, shall be regarded as returnable to the next stated term of the said Court to be holden thereafter.

Writs, &c., when return-

may order.

Sec. 3. That hereafter the following Courts in the Fourth Circuit shall be held at the following times, instead of the times heretofore prescribed by law:

1. The Court of General Sessions at Chesterfield, for the County of Chesterfield, on the first Monday of January, May and September; and the Court of Common Pleas at Chesterfield, for the County of Chesterfield, on the first Wednesday after the first Monday in January, May and September.

2. The Court of General Sessions at Bennettsville, for the County of Marlboro, on the third Monday of January, May and September; and the Court of Common Pleas at Bennettsville, for the County of Marlboro, on the first Wednesday after the third Monday of January, May and September.

3. The Court of General Sessions at Marion, for the County of Marion, on the first Monday of February, June and October; and the Court of Common Pleas at Marion, for the County of Marion, on the first Wednes-

day after the first Monday of February, June and October.

4. That all writs and processes which shall have been made returnable to the Courts of any of the said Counties according to the laws heretofore of force, shall be legal and valid, to all intents and purposes, for the Courts next to be held in the said Counties, respectively, according to the provisions of this Act, and all persons already summoned, or who may hereafter be summoned to attend the Courts of any of the said Counties, as jurors or witnesses, or who are now, or hereafter shall be bound in recognizance to appear at any of the said Courts, according to the laws heretofore of for. e, shall be, and are hereby, required to attend or appear at the Court of the said Counties, respectively, next to be held according to the provisions of this Act.

SEC. 4. That paragraph 2 of Section 2 of an Act entitled "An Act to organize the Circuit Courts," passed the fifteenth day of August, 1868, General Ses- be amended so as to read as follows: The Court of General Sessions at Orangeburg, for the County of Orangeburg, on the second Monday in January, May and October; and the Court of Common Pleas at Orange-

sions at Or-angeburg.

burg, for the County of Orangeburg, on the Wednesday after the second Monday in January, May and October. All processes, writs, and recognizances of every kind issued (or which, before the ratification of this of Common Act, shall have been issued) and made returnable to either Court on the Pleas. days appointed by said Act of 1868, shall be returnable to the terms of the said Courts as herein established, the same as if issued or taken in reference thereto.

A. D. 1870.

SEC. 5. That the 7th Section of an Act entitled "An Act to organize the Circuit Courts," be amended to read as follows:

The Circuit Courts in the Sixth Circuit shall be held as follows:

1. The Court of General Sessions at Union, for the County of Union, General Sessions the second Monday in January, first Monday in March and first Monsions at Union day in September; and the Court of Common Pleas at Union, for the County of Union, on the first Wednesday after the second Monday in of Common January, and the first Wednesday after the first Monday in March and Pleas. September.

2. The Court of General Sessions at York, for the County of York, on the third Monday in January, March and September; and the Court of sions at York. Common Pleas at York, for the County of York, on the first Wednesday after the third Monday in January, March and September.

The Court of

3. The Court of General Sessions at Lancaster, for the County of Lancaster, on the fourth Monday in January, first Monday after the fourth Monday in March and September; and the Court of Common Pleas at Lancaster, for the County of Lancaster, on the first Wednesday after the fourth Monday in January, and the first Monday after the fourth Monday

Lancaster.

in March and September.

September.

4. The Court of General Sessions at Chester, for the County of Chester, on the first Monday after the fourth Monday in January, and the third Monday after the fourth Monday in March and September; and the Court of Common Pleas at Chester, for the County of Chester, on the first Wednesday after the first Monday after the fourth Monday in January, and the third Monday after the fourth Monday in March and

Chester.

5. That all processes and recognizances, heretofore made returnable to the Courts of any of the said Counties, be legal, good and binding, for the Court next to be held in said County according to this Act.

Approved March 1, 1870.

JOINT RESOLUTIONS.

JOINT RESOLUTOIN RELATIVE TO EXCHANGE OF PUBLIC DOCU-MENTS.

No. 1.

Resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Secretary of State be instructed to acknowledge the receipt of the copy of the statutes transmitted by the Legis- exchange, lative Council of the Province of Quebec, Canada, and inform that body that the Government of the State of South Carolina will take great plea-

Secretary of

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53

A. D. 1869.

sure in an interchange of the laws and public documents published by their respective Legislative Assemblies, and to transmit to the Legislative Council of the Province of Quebec, Canada, a copy of the Acts of the General Assembly of the State of South Carolina, heretofore passed, and a copy of all laws and public documents annually hereafter published.

Approved December 22, 1869.

JOINT RESOLUTION DIRECTING THE STATE AUDITOR AND COUNTY No. 2. COMMISSIONERS TO LEVY CERTAIN TAXES.

vied.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and Amount of by the authority of the same, That the State Auditor be, and he is hereby, authorized and directed to levy, and cause to be collected, a tax of (1) one-half of (1) one per cent. on all taxable property in the State, to meet appropriations for the fiscal year 1869; and the County Commissioners of each of the Counties are hereby authorized to levy, and cause to be collected, a tax not exceeding (3-10) three mills on a dollar of all taxable property in their respective Counties, to meet the expenses of the said Counties for the fiscal year of 1869, except the County of Pickens. in which the County Commissioners may levy, and cause to be collected, a tax of (7-10) seven mills on a dollar; the Counties of Georgetown and Marlboro, in which the County Commissioners may levy, and cause to be collected, a tax of (4-10) four mills on a dollar; and the Counties of Beaufort and Marion, in which the County Commissioners may levy, and cause to be collected, a tax of (5-10) five mills on a dollar, if, in their judgment, so much be necessary.

Approved December 22, 1869.

JOINT RESOLUTION AUTHORIZING THE COUNTY COMMISSIONERS OF No. 3. Williamsburg County to Levy a Special Tax.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That in addition to the tax heretofore authorized to be levied, the County Commissioners of Williamsburg County are hereby authorized to levy and cause to be collected a special tax of two mills on a dollar, the same to be used exclusively for the purpose of rebuilding the jail in the said County.

Approved January 12, 1870.

No. 4. JOINT RESOLUTION AUTHORIZING THE APPOINTMENT OF FISH Commissioners, and defining the duties thereof.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the

authority of the same: 1st. That a Board of Fish Commissioners shall be appointed by the Governor, to consist of one member from each Judi-

cial District.

A. D. 1870. Governor to appoint.

Duties.

2d. It shall be the duty of said Commissioners to inspect all inland streams, in their respective Districts, that are large enough for migratory fish to ascend, and report to the Legislature, at its next regular session, what obstructions are necessary to be removed, and over what natural waterfalls or artificial dams it may be expedient for fishways to be constructed, and what impurities are allowed to flow into, or are cast into, the streams that are poisonous to fish or destructive to their spawn.

3d. It shall be their duty to report to the Solicitors, in their respective Circuits, all parties who may be violating the present fish laws of the State; and it shall be the duty of the Solicitors to prosecute all persons

so reported.

4th. Said Commissioners are authorized, and are hereby empowered to visit, at all times, and inspect any point they may deem necessary for above mentioned purposes, and are empowered to call to their assistance so many persons as they may deem necessary, in case of resistance; and any person refusing to give assistance shall be liable to a fine of not less than ten, nor more than fifty dollars, to be recovered in any Court of competent jurisdiction in the State.

5th. The pay of said Commissioners shall be, to each, two dollars per day for each day, and ten cents per mile for each mile travelled, in the discharge of their duties: Provided, They shall receive pay for not more than ninety days during the year 1870. Such expenses to be paid out of

any money in the Treasury not otherwise appropriated. Approved January 19, 1870.

Componsa-

Powers.

JOINT RESOLUTION TO DIRECT THE COUNTY COMMISSIONERS OF CHARLESTON COUNTY TO EXAMINE AND REPORT TO THE ATTORNEY-GENERAL CONCERNING CERTAIN LANDS BELONGING STATE.

No. 5.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners of Charleston County be, and they are hereby, directed and required, as speedily as possible, to examine and report what lands belonging to the State in the portion of Charleston County known as the Parish of St. John's Berkely, are now held and used by private individuals, the said report to be made to the Attorney-General, and by him transmitted to the General Assembly.

Description

Approved January 19, 1870.

JOINT RESOLUTION AUTHORIZING THE STATE TREASURER TO AD-VANCE SIX THOUSAND DOLLARS PER MONTH TO THE SUPERINTEN-DENT OF THE PENITENTIARY OF SOUTH CAROLINA.

No. 6.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by



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A. D. 1870. Treasurer authorized to pay.

the authority of the same, That the Treasurer of the State be, and is hereby, authorized and required to pay to the Superintendent of the South Carolina Penitentiary, the sum of six thousand dollars per month in advance of the appropriation for said Penitentiary, the said amount to be paid out of any moneys not otherwise appropriated, and to be deducted from the appropriation for said Penitentiary when made.

Approved February 2, 1870.

JOINT RESOLUTION TO EXTEND THE TIME IN WHICH CLAIMS OF No. 7. Teachers for Services Rendered during the Year commencing OCTOBER 31, 1867, SHALL BE PRESENTED FOR PAYMENT.

> Whereas, by the provisions of Joint Resolution No. 16, entitled "Joint Resolution authorizing the State Treasurer to apportion to the several Counties the appropriation of \$25,000 authorized in General Order No. 139, of December 3d, 1867, Headquarters Second Military District, for the support of Free Schools, same to be paid over to the respective County Treasurers, in order to pay claims of teachers, passed by the General Assembly of the State of South Carolina at the Regular Session of 1868-'69, and approved March 26th, 1869, it was prescribed that all claims of teachers for services rendered during the year commencing October 31st, 1867, should be presented for payment on or before the 30th day of June, A. D. 1869; and whereas, in divers Counties, by reason of a misunderstanding of the law on the part of teachers and County School Commissioners, said claims were not presented for payment within the time specified by the aforesaid Joint Resolution No. 16; therefore,

> Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the time within which the claims of teachers for services rendered during the year commencing October 31st, 1867, shall be presented for payment, be, and the same is hereby, extended to the first day of May, A. D. 1870.

Approved February 3, 1870.

JOINT RESOLUTION TO AUTHORIZE THE STATE TREASURER TO No. 8. Issue a Renewal of Six per cent. State Stock.

To Executors of Maria Brisbane.

Amount.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer be, and he is hereby, authorized and instructed to issue to the Executor of the Estate of Maria Brisbane, deceased, or his legal representatives, a renewal of six per cent. State stock, Act of 1856, redeemable on the 1st January, 1877, No. 33, for \$3,090, in the name of said Maria Brisbane, deceased, in lieu of the original, which has been lost or mislaid. Approved February 3, 1870.

JOINT RESOLUTION Authorizing the State Treasurer to Re-Issue Certificate of State Stock to William Dougherty.

A. D. 1870. No. 9.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer be, and he is hereby, authorized to re-issue to William Dougherty, or his assignee, agent, or attorney, certificates of stock, of the same amount, payable at the same time, and bearing the same rate of interest, as those destroyed: Provided, That the said William Dougherty, his assignee, agent, or attorney, give good and sufficient security in the penal sum of fifteen thousand dollars, to indemnify the State against loss.

Approved February 9, 1870.

JOINT RESOLUTION TO AUTHORIZE THE SECRETARY OF STATE TO Purchase One Hundred Copies of Richardson's 15th Volume OF LAW REPORTS, AND ONE HUNDRED COPIES OF RICHARDSON'S 14TH VOLUME OF EQUITY REPORTS.

No. 10.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Secretary of State be, and he is hereby, authorized to purchase one hundred copies of the 15th volume of purchase. Richardson's Law Reports, and one hundred copies of the 14th volume of Richardson's Equity Reports, the same being for the use of the State, and for distribution among the other States of this Union.

Authority to

Purpose.

JOINT RESOLUTION TO CHANGE THE NAME OF ALEXANDER HENRY No. 11. RILEY TO ALEXANDER HENRY BUCHANAN.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the name of Alexander Henry Riley, of Chesterfield County, be changed to Alexander Henry Buchanan, and that hereafter the said Alexander Henry Riley be known and called Alexander Henry Buchanan.

Approved February 26, 1870.

Approved February 18, 1870.

JOINT RESOLUTION TO AUTHORIZE THE ATTORNEY-GENERAL TO INSTITUTE PROCEEDINGS AGAINST THE SOUTH CAROLINA RAILROAD COMPANY, FOR VIOLATION OF ITS CHARTER.

No. 12.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the



authority of the same, That the Attorney-General be, and he is hereby, required, with the least practicable delay, to institute such proceedings in the Courts of this State as, in his judgment, may be necessary, to enforce the provisions of Section 20 of "An Act to incorporate the Cincinnati and Charleston Railroad Company," passed December 19, 1835. Approved February 28, 1870.

JOINT RESOLUTION AUTHORIZING THE STATE TREASURER TO RE-No. 13. Issue to Alex. Robertson, J. F. Blacklock and E. P. Coach-MAN, OR THEIR ASSIGNEES, AGENTS OR ATTORNEYS, AND OTHERS THEREIN NAMED, CERTAIN CERTIFICATE OF STOCK.

Preamble.

Whereas, upon examination it appears by the books of the State Treasurer, that there has been duly issued a certificate of stock to the amount of twenty-five hundred (2,500) dollars to Alex. Robertson, J. F. Blacklock and E. P. Coachman, executors of the will of the late John Exum; and whereas, said stock was lost or destroyed during the conflagration of the city of Columbia, in February, 1865; and whereas, it is equitable and just that the said stock should be renewed on the part of the State; therefore.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by

Robertson others.

Bond.

lar.

Bond.

A. M. Dehon.

Bond.

Thomas

Bond.

Alexander the authority of the same, That the State Treasurer be, and he is hereby, authorized to re-issue to Alex. Robertson, J. F. Blacklock and E. P. Coachman, or their assignees, agents or attorneys, a certificate of stock of the same amount, payable at the same time, and bearing the same rate of interest, as those destroyed: Provided, That a bond be legally executed in the penal sum of five thousand dollars, and deposited with the State Ruth H. Mil- Treasurer, to indemnify the State against loss; also, Ruth H. Millar, or her assignee, agent or attorney, certificate of stock of the same amount, payable at the same time, and bearing the same rate of interest as those lost or destroyed: Provided, That the said Ruth H. Millar, her assigned, agent or attorney, give good and sufficient security in the penal sum of one thousand dollars, to indemnify the State against loss; also, to A. M. Dehon, certificate of the same amount, payable at the same time, and bearing the same rate of interest as that lost or destroyed: Provided, That the said A. M. Dehon, her assignee, agent or attorney, give good and sufficient security in the sum of fifteen thousand dollars, to indemnify the State against loss; also, to Thomas W. Webb, trustee of Mackeoun and Martha Johnson, certificate of the same amount, payable at the same time, and bearing the same rate of interest as that lost or destroyed: Provided. That the said Thomas W. Webb, his agent, assignee or attorney, give good and sufficient security in the penal sum of twenty-six hundred dollars, to indemnify the State against loss.

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Approved February 28, 1870.

JOINT RESOLUTION TO PROVIDE MEDICAL AID FOR THE INDIGENT SICK IN THE RESPECTIVE COUNTIES IN THE STATE.

A. D. 1870. No. 14.

Whereas, the present law defining the duties and jurisdiction of County Commissioners does not make it incumbent upon said Commissioners to provide medical aid for the indigent sick in their respective Counties;

therefore,

Section 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners of the several Counties in the State be, and they are hereby, authorized, whenever, in their judgment, it is necessary, to appoint one or more physicians, whose duty it shall be to furnish medical aid to the indigent sick in their respective Counties; and whenever accounts are rendered for the performance of such duty, the County Commissioners are hereby instructed to examine said accounts, and, if found correct, to audit the same, and give a warrant on the County Treasurer for their pay-

SEC. 2. That the County Commissioners of the respective Counties of County Comthis State be, and they are hereby, authorized and required to provide missioners to provide acsuitable hospital accommodations in connection with the Poor House at commodation or near the County Seats of their respective Counties, where the indigent sick poor may receive medical and surgical aid, free of charge, and to appoint physicians thereto, except the County of Charleston, where the missioners of County Commissioners are hereby authorized and required to cause to be Charleston. built at or near Cordesville, Parish of St. John's Berkeley, a hospital for the indigent sick poor, and to appoint a physician thereto, to be paid as herein provided: Provided, The cost of the said building shall not exceed two thousand (2,000) dollars: Provided, further, That no physician, so appointed to any of the hospitals, shall charge for his services more than one-half the usual fees.

Approved March 1, 1870.

JOINT RESOLUTION TO AUTHORIZE THE COMMITTEE OF INVESTIGA-TION FOR THE THIRD CONGRESSIONAL DISTRICT TO MAKE A SIMILAR INVESTIGATION FOR THE FOURTH CONGRESSIONAL DISTRICT.

No. 15.

Resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Committee appointed by joint resolution of the General Assembly, entitled "Joint Resolution to appoint a Committee of Investigation for the Third Congressional District," passed March 26, 1869, be, and they are hereby, authorized to make such investigation as they may deem proper into the facts and circumstances attending the late Congressional election in the Fourth Congressional District of this State; and for this purpose they are hereby authorized to compel the attendance of witnesses, and to send for papers: Provided, That the Com-

mittee shall receive no compensation from the State for such services rendered under this resolution: Provided, The duty hereby assigned to said Committee shall be performed in the City of Columbia, agreeably to a resolution of the Congress of the United States, in the matter of the contested election of Simpson vs. Wallace, and that the same shall be completed on or before 25th of March, A. D. 1870. Approved March 1, 1870.

No. 16.

JOINT RESOLUTION FOR THE RELIEF OF MARY TAYLOR.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Mary Taylor, of the County of New-Vesting title berry, be, and she hereby is, invested with the title in fee simple of the of real estate in Mary Tay- following real estate, to wit: All that piece or parcel of land bounded by lands of George Derrich, George Wise, Michael Sheely and others, and on the Saluda River, purchased from Michael Sheely in 1857, containing fifty acres, more or less, and late the property of Stanmore Taylor, the illegitimate child of said Mary Taylor, late of Newberry County, deceased: Provided, Said land shall be subject to the debts of said Stanmore Taylor, deceased.

Approved March 1, 1870.

Description of real estate.

THE CODE OF PROCEDURE

OF THE

STATE OF SOUTH CAROLINA,

Passed by the General Assembly at the Regular Session, which was begun and held at the city of Columbia, on the fourth Tuesday in November, A. D. 1869, and was adjourned, without day, on the twenty-fourth day of March, A. D. 1870.

ROBERT K. Scott, Governor. D. T. CORBIN and CHAS. W. MONTGOM-ERY, Presidents of the Senate. Franklin J. Moses, Jr., Speaker of the House of Representatives.

AN ACT TO REVISE, SIMPLIFY AND ABRIDGE THE RULES, PRACTICE, PLEADINGS AND FORMS OF COURTS IN THIS STATE.

No. 300

Whereas, it is provided that the present forms of actions and pleadings in cases at common law should be abolished; that the distinction between legal and equitable remedies should no longer continue; and that an uniform course of proceeding in all cases should be established; therefore.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same:

SEC. 1. Division of Remedies.

2. Definition of an action.

3. Definition of a special proceeding.

4. Division of actions into civil and criminal.

5. Definition of a criminal action.

6. Definition of a civil action.

7. Civil and criminal remedies not merged in each other.

8. Division of this Act.

SEC. 1. Remedies in the Courts of Justice are divided into: 1. Actions; 2. Special proceedings.

Remedies.

SEC. 2. An action is an ordinary proceeding in a Court of Justice, by which a party prosecutes another party for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offence.

Action.

ceeding.
Division of

Actions.

- SEC. 3. Every other remedy is a special proceeding.
- SEC. 4. Actions are of two kinds: 1. Civil; 2. Criminal.
- SEC. 5. A criminal action is prosecuted by the State, as a party, Crimagainst a person charged with a public offence, for the punishment tion. thereof.

Civil Action

Criminal Ac-

Special Pro-

SEC. 6. Every other is a civil action.

A. D. 1870. SEC. 7. Where the violation of a right admits of both a civil and criminal remedy, the right to prosecute the one is not merged in the other. Remedies not SEC. 8. This Act is divided into two parts: The first relates to Courts merged. Division of of Justice and their jurisdiction. The second relates to civil actions in the Courts of this State.

PART I.

OF THE COURTS OF JUSTICE AND THER JURISDICTION.

TITLE I.

CHAPTER I.

SEC. 9. The several Courts of this State. 10. Their jurisdiction generally.

The several Courts.

- SEC. 9. The following are the Courts of Justice in this State:
- 1. The Court for Trial of Impeachments.
- 2. The Supreme Court.
- 3. Two Circuit Courts, to wit: (1.) A Court of Common Pleas; and
- (2.) A Court of General Sessions.
 - 4. Probate Courts.
 - 5. Courts of Justices of the Peace.
 - 6. Courts of Trial Justices.
 - 7. The City Court of Charleston.
 - 8. Mayors' and Intendants' Courts.

Their juris-SEC. 10. These Courts shall exercise the jurisdiction now vested in diction generthem respectively, except as otherwise prescribed by this Act.

TITLE II.

SUPREME COURT.

Sec. 11. Its jurisdiction.

12. Power of Court.

13. Terms. Preference of Causes.

Judgment, rehearing. Opinions. 15. Sheriffs to provide rooms, &c.

16. Courts, where held. Adjournment.

Jurisdiction.

SEC. 11. The Supreme Court shall have exclusive jurisdiction to review upon appeal:

Of final judg-

1. Final judgments in actions commenced in the Courts of Common Pleas and General Sessions, brought there by original process or removed there from any inferior Court or jurisdiction; and upon the appeal from such judgment, to review any intermediate order involving the merits, and necessarily affecting the judgment.

2. An order affecting a substantial right made in an action, when such order in effect determines the action, and prevents a judgment from which an appeal might be taken, or discontinues the action, and when such or- feeting a sunder grants or refuses a new trial; but no appeal to the Supreme Court from stantial right an order granting a new trial, on a case made or bill of exceptions, shall be effectual for any purpose, unless the notice of appeal contain an assent on the part of the appellant, that if the order be affirmed, judgment absolute snall be rendered against the appellant. Upon every appeal from an order granting a new trial, on a case made or on exceptions taken, appeal from order grantif the Supreme Court shall determine that no error was committed in ing new trial granting the new trial, they shall render judgment absolute upon the right of the appellant; and after the proceedings are remitted to the Court from which the appeal was taken, an assessment of damages or other proceedings, to render judgment effectual, may be then and there had in cases where such subsequent proceedings are requisite.

3. A final order affecting a substantial right made in a special proceeding, or upon a summary application in an action after judgment, and affecting substantial right. upon such appeal to review any intermediate order involving the merits,

and necessarily affecting the order appealed from.

SEC. 12. The Supreme Court may reverse, affirm or modify the judgment, decree or order appealed from, in whole or in part, and as to any preme Court. or all of the parties; and its judgment shall be remitted to the Court below, to be enforced according to law.

SEC. 13. The Supreme Court shall hold annually, at the seat of government, two sessions, the one commencing on the fourth Tuesday of November, and the other the first Tuesday of April; and each of said terms shall be continued for so long a period as the public interest may

require.

Additional Terms may be appointed and held at such times and places as the Court may direct, when the public interest requires it. The Court may, by general rules, provide what causes shall have a preference on the calendar. On a second and each subsequent appeal to the Supreme Court, or when an appeal has once been dismissed for defect or irregularity, the cause shall be placed upon the calendar as of the time of filing the first appeal, and may be noticed and put on the calendar for any succeeding Term; and whenever, in any action or proceeding in which the State, or any State officer, or any Board of State officers, is or are sole Plaintiff or Defendant, an appeal has been, or shall be, brought up from any judgment or order for or against him or them, in any Court, such appeal shall have preference in the Supreme Court, and may be moved by either party out of the order on the calendar.

SEC. 14. The concurrence of two Judges is necessary to pronounce a judgment. If two do not concur, the case must be reheard. But no more than two rehearings shall be had; and if, on the second rehearing, two

Judges do not concur, the judgment shall be affirmed.

When two of the Judges do not concur, and a rehearing of the case is ordered, the Judges shall file the opinions read by them with the Reporter of the Court, but such opinions shall not be published. No person other than the Judges of the Court, the Reporter of the Court, or the counsel or attorney of either of the parties to the action, shall have access to, or a copy of the said opinions, but such counsel or attorney may have access to and a copy thereof.

A. D. 1870.

Of order af-

Condition of

Power of Su-

Preference

Judgments.

Behearing.

Opinions.

A. D. 1870. Sheriff to pro-

vide **rooms.**

SEC. 15. If, at a term of the Supreme Court, proper and convenient rooms, both for the consultation of the Judges and the holding of the Court, with furniture, attendants, fuel, lights and stationery, suitable and sufficient for the transaction of its business, be not provided for in the place where by law the Court may be held, the Court may order the Sheriff of the County to make such provision, and the expense incurred by him in carrying the order into effect shall be a County charge.

held.

SEC. 16. The Supreme Court may be held in other buildings than those courts, where designated by law as places for holding Courts, and at a different place, in the same city or town from that at which it is appointed to be held. Adjournment Any one or more of the Judges may adjourn the Court with the like effect as if all were present.

TITLE III.

CIRCUIT COURTS.

SEC. 17. Division of the State into Circuits.

18. Time of holding Courts in First Circuit.

Time of holding Courts in Second Circuit. 20. Time of holding Courts in Third Circuit.

21. Time of holding Courts in Fourth Circuit.

22. Time of holding Courts in Fifth Circuit. 23. Time of holding Courts in Sixth Circuit.

24. Time of holding Courts in Seventh Circuit. 25. Time of holding Courts in Eighth Circuit.

26. Judges to hold Circuit Court.

27. Judges' power to adjourn Court Common Pleas.

28. Special Sessions of Circuit Courts.

29. Petit Jurors in Common Pleas and General Sessions.

30. Adjournment of Circuit Courts.

31. Qualification of Judges.

32. Circuit Courts made Courts of Record.

33. Clerk and Deputy Clerk of Circuit Courts. 34. Transfer of causes from Court of Chancery.

SEC. 17. The State is divided into eight Circuits, as follows:

1. The Counties of Charleston and Orangeburg shall constitute the First Circuit. First Circuit.

Second Cir-

cuit.

2. The Counties of Beaufort, Colleton and Barnwell shall constitute the Second Circuit. 3. The Counties of Sumter, Clarendon, Williamsburg, Georgetown and

Third Circuit. Horry shall constitute the Third Circuit.

4. The Counties of Chesterfield, Marlboro, Marion, Darlington and

Fourth Cir-

Seventh Cir-

cuit.

Fairfield shall constitute the Fourth Circuit. 5. The Counties of Kershaw, Richland, Edgefield and Lexington shall

Fifth Circuit. constitute the Fifth Circuit.

6. The Counties of Chester, Lancaster, York and Union shall consti-

Sixth Circuit. tute the Sixth Circuit.

7. The Counties of Newberry, Laurens and Spartanburg shall constitute the Seventh Circuit.

A. D. 1870. 8. The Counties of Greenville, Anderson, Oconee, Pickens and Abbeville shall constitute the Eighth Circuit.

SEC. 18. The Circuit Courts in the First Circuit shall be held as fol-

Eighth Cir-

1. The Court of General Sessions, at Charleston, for the County of First Circuit. Charleston, on the first Monday of February, June and November; and the Court of Common Pleas, at Charleston, for the County of Charleston, Charleston. on the second Monday of February, June and November.

2. The Court of General Sessions, at Orangeburg, for the County of Orangeburg. Orangeburg, on the first Monday of January, May and September; and the Court of Common Pleas, at Orangeburg, for the County of Orangeburg, on the first Wednesday after the first Monday of January, May

and September.

SEC. 19. The Circuit Courts in the Second Circuit shall be held as fol- second Cirlows:

1. The Court of General Sessions, at Beaufort, for the County of Beau-Beaufort. fort, on the third Monday of February, June and October; and the Court of Common Pleas, in Beaufort, for the County of Beaufort, on the fourth Monday of February, June and October.

2. The Court of General Sessions, at Walterboro, for the County of Colleton.

Colleton, on the third Monday of March, July and November; and the Court of Common Pleas, at Walterboro, for the County of Colleton, on the first Thursday after the third Monday of March, July and November.

3. The Court of General Sessions, at Blackville, for the County of Barn- Barnwell. well, on the second Monday of April, August and December; the Court of Common Pleas, at Blackville, in the County of Barnwell, on the first Thursday after the second Monday of April, August and December.

SEC. 20. The Circuit Courts in the Third Circuit shall be held as fol-

1. The Court of General Sessions, at Sumter, for the County of Sum- Sumter. ter, on the first Monday of January, May and October; and the Court of Common Pleas, at Sumter, for the County of Sumter, on the first Wednesday after the first Monday of January, May and October.

2. The Court of General Sessions, at Manning, for the County of Clar-Clarendon. endon, on the third Monday of January, May and October; and the Court of Common Pleas, at Manning, for the County of Clarendon, on the first Wednesday after the third Monday of January, May and October.

3. The Court of General Sessions, at Kingstree, for the County of Williamsburg, on the fourth Monday of January, May and October; and the Court of Common Pleas, at Kingstree, for the County of Williamsburg, on the first Wednesday after the fourth Monday of January, May and October.

4. The Court of General Sessions, at Georgetown, for the County of Georgetown. Georgetown, on the first Monday after the fourth Monday of January, May and October; and the Court of Common Pleas, at Georgetown, for the County of Georgetown, on the first Wednesday after the first Monday after the fourth Monday of January, May and October.

5. The Court of General Sessions, at Conwayboro, for the County of Horry. Horry, on the second Monday after the fourth Monday of January, May and October; and the Court of Common Pleas, at Conwayboro, for the County of Horry, on the first Wednesday after the second Monday after the fourth Monday of January, May and October.

Williamsburg

A. D. 1870. SEC. 21. The Circuit Courts in the Fourth Circuit shall be held as

1. The Court of General Sessions, at Chesterfield, for the County of Fourth Cir-Chesterfield, on the first Monday of January, May and August; and the cuit. Court of Common Pleas, at Chesterfield, for the County of Chesterfield, Chesterfield. on the first Wednesday after the first Monday of January, May and

August.

follows:

2. The Court of General Sessions at Bennettsville, for the County of Marlboro, on the third Monday of January, May and August; and the Court of Common Pleas at Bennettsville, for the County of Marlboro, on the first Wednesday after the third Monday of January, May and August.

3. The Court of General Sessions at Marion, for the County of Marion, on the first Monday of February, June and September; and the Court of Common Pleas at Marion, for the County of Marion, on the first Wednesday after the first Monday of February, June and September.

4. The Court of General Sessions at Darlington, for the County of Darlington, on the third Monday of February, June and October; and the Court of Common Pleas at Darlington, for the County of Darlington, on the first Wednesday after the third Monday of February, June and October.

5. The Court of General Sessions at Winnsboro, for the County of Fairfield, on the second Monday of March, July and November; and the Court of Common Pleas at Winnsboro, for the County of Fairfield, on the first Wednesday after the second Monday of March, July and November.

SEC. 22. The Circuit Courts in the Fifth Circuit shall be held as follows:

1. The Court of General Sessions at Camden, for the County of Ker-Fifth Circuit. shaw, on the first Monday of January, May and September; and the Court of Common Pleas at Camden, for the County of Kershaw, on the first Wednesday after the first Monday of January, May and September. 2. The Court of General Sessions at Columbia, for the County of Rich-

land, on the first Monday of February, June and October; and the Court of Common Pleas at Columbia, for the County of Richland, on the first Wednesday after the first Monday of February, June and October.

3. The Court of General Sessions at Edgefield, for the County of Edge-

field, on the first Monday of March, July and November; and the Court of Common Pleas at Edgefield, for the County of Edgefield, on the first Wednesday after the first Monday of March, July and November.

4. The Court of General Sessions at Lexington, for the County of Lexington, on the first Monday of April, August and December; and the Court of Common Pleas at Lexington, for the County of Lexington, on the first Wednesday after the first Monday of April, August and Decem-

SEC. 23. The Circuit Courts in the Sixth Circuit shall be held as follows:

1. The Court of General Sessions at Chesterville, for the County of Chester, on the first Monday of January, May and September; and the Court of Common Pleas at Chesterville, for the County of Chester, on the first Wednesday after the first Monday of January, May and September.

2. The Court of General Sessions at Lancaster, for the County of

Marlboro.

Marion.

Darlington.

Fairfield.

Kershaw.

Richland.

Edgefield.

Lexington.

Sixth Circuit.

Chester.

Lancaster.

November. follows: September. ber.

Lancaster, on the first Monday of February, June and October; and the Court of Common Pleas at Lancaster, for the County of Lancaster, on the first Wednesday after the first Monday of February, June and October.

3. The Court of General Sessions at Yorkville, for the County of York, York. on the first Monday of March, July and November; and the Court of Common Pleas at Yorkville, for the County of York, on the first Wednes-

day after the first Monday of March, July and November. 4. The Court of General Sessions at Unionville, for the County of Union. Union, on the first Monday of April, August and December; and the Court of Common Pleas at Unionville, for the County of Union, on the first Wednesday after the first Monday of April, August and December.

SEC. 24. The Circuit Courts in the Seventh Circuit shall be held as fol- Seventh Cir-

lows:

1. The Court of General Sessions at Newberry, for the County of New-Newberry. berry, on the third Monday of January, May and September; and the Court of Common Pleas at Newberry, for the County of Newberry, on the first Wednesday after the third Monday of January, May and September.

2. The Court of General Sessions at Laurensville, for the County of Laurens. Laurens, on the third Monday of February, June and October; and the Court of Common Pleas at Laurensville, for the County of Laurens, on the first Wednesday after the third Monday of February, June and

October.

3. The Court of General Sessions at Spartanburg, for the County of Spartanburg. Spartanburg, on the third Monday of March, July and November; and the Court of Common Pleas at Spartanburg, for the County of Spartanburg, on the first Monday after the third Monday in March, July and

SEC. 25. The Circuit Courts in the Eighth Circuit shall be held as Eighth Cir-

1. The Court of General Sessions at Greenville, for the County of Greenville. Greenville, on the second Monday of January, May and September; and the Court of Common Pleas at Greenville, for the County of Greenville, on the first Wednesday after the second Monday of January, May and

2. The Court of General Sessions at Anderson, for the County of An-Anderson. derson, on the fourth Monday of January, May and September; and the Court of Common Pleas at Anderson, for the County of Anderson, on the first Wednesday after the fourth Monday of January, May and Sep-

3. The Court of General Sessions at Walhalla, for the County of Oco-Oconee. nee, on the second Monday of March, July and November; and the Court of Common Pleas at Walhalla, for the County of Oconee, on the first Wednesday after the second Monday of March, July and Novem-

4. The Court of General Sessions at New Pickens, for the County of Pickens. Pickens, on the fourth Monday of March, July and November; and the Court of Common Pleas at New Pickens, for the County of Pickens, on the first Wednesday after the fourth Monday of March, July and November.

5. The Court of General Sessions at Abbeville, for the County of Ab-Abbeville,

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cuit.

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beville, on the third Monday of February, June and October; and the Court of Common Pleas at Abbeville, for the County of Abbeville, on the first Wednesday after the third Monday in February, June and October.

The Judges hold Cirto cuit Courts.

SEC. 26. The Judges elected and commissioned for the several Circuits shall hold the Courts of Common Pleas and General Sessions for the several Counties in their respective Circuits: Provided, Said Judges shall interchange Circuits, upon their request to, and order of, the Chief Justice, or upon the order of the Chief Justice without such request, whenever, in his judgment, it shall be deemed advisable.

mon Pleas.

Sec. 27. Should the business before the Court of General Sessions, at Judge's pow- any term, not be completed on the arrival of the day fixed by law for the court of Com- holding of the Court of Common Pleas for said County, the Judge presiding may, in his discretion, adjourn said Court of Common Pleas until the said business of the Court of General Sessions shall have been concluded.

Special Sessions of Circuit Courts.

Sec. 28. The several Circuit Judges shall have power to hold special sessions within their respective Circuits, at any time in their discretion, or at the discretion of the Chief Justice, of which the Judge presiding shall give such notice as the Chief Justice may direct, or as may, in his judgment, be necessary, should no directions be given. The Clerk of such Court shall, at least fifteen days before the commencement of such special session, cause the time and place for holding the same to be notified, for at least two weeks, successively, in one or more of the newspapers published nearest the place where the session is to be holden. All processes, writs and recognizances of every kind, whether respecting juries, witnesses, bail, or otherwise, which relate to the cases to be tried at the said special session, shall be considered as belonging to such sessions, in the same manner as if they had been issued or taken in reference thereto. All business depending for trial at any special session shall, at the close thereof, be considered as of course removed to the next stated term of the Court. Said special session shall be held in pursuance of an order which shall be transmitted to the Clerk of the Court, and by him entered on the records of the Court.

SEC. 29. Petit jurors summoned to attend the Court of General Ses-Petit Jurors sions in any County, except the County of Charleston, shall also attend in Common and serve as jurgeral Sessions. for said County. and serve as jurors for the Courts of Common Pleas next ensuing in and

SEC. 30. The Judge of the Circuit Court shall have power to direct Adjournment of the Circuit any Circuit Court in his Circuit to be adjourned over to a future day, Courts. designated in a written order to the Clerk of said Court, whenever there designated in a written order to the Clerk of said Court, whenever there is a dangerous and general disease at the place where said Court is usually holden.

Qualification of Judges.

Sec. 31. The Judges elected and qualified by taking the oath prescribed in the thirtieth Section of the second Article of the Constitution, which oath, to the Judges under the first election, shall be administered by the Governor of the State of South Carolina, who is hereby empowered to administer the same, and to the Judges under any subsequent election by one of the Justices of the Supreme Court, shall forthwith enter upon their duties.

Circuit Courts made Courts of Record.

Sec. 32. The Circuit Courts herein established shall be the Courts of record, and the books of record thereof shall at all times be subject to the inspection of any person interested therein.



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SEC. 33. The Clerk elected in each County under the provisions of Section 27 of Article IV of the Constitution, shall be Clerk of the Courts of General Sessions and Common Pleas, and may appoint a deputy, who may perform the duties of Clerk, for whose acts such Clerk shall be repetited the Circuit sponsible; and a record of whose appointment shall be made in the Court. Clerk's office; and such appointment may be revoked at the pleasure of the Clerk; and in case no Clerk exists, the Judge shall have authority to appoint a person, who shall perform the duties of Clerk, and said Deputy Clerk, or the one appointed by the Judge, shall be required to give the

usual bond before entering upon the duties of the office.

SEC. 34. All suits in Equity depending in the Courts of Chancery, and records relating thereto, on the Courts of the Courts of the first day of January, A. D. 1869, shall be transferred to the Courts Chancery. of Common Pleas in and for the respective Counties, and shall be entered upon the dockets of said Courts for the stated term thereof next ensuing, and thereupon shall be heard, tried and determined, with all rights respected and preserved, in the same manner as if originally brought there: Provided, That no cause shall be transferred to the dockets of the Courts aforesaid, not cognizable therein under the Constitution: Provided, further, That all causes depending as aforesaid, and the property and records pertaining thereto, cognizable under the Constitution in the Courts of Probate, shall be transferred to said Courts.

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TITLE IV.

PROBATE COURT.

Sec. 35. Sessions.

36. Court of Record.

37. Duties of Clerk.

38. Jurisdiction of Judges.

39. In relation to Guardians.

40. Titles and partition of Real Estate.

41. Settlement of Estate in the County where will proved. 42. All proceedings relative to Estates under Guardianship had in the Court of Probate.

43. Judges not to act when interested. When Judges of adjoining County to act.

44. Power to administer Oath.

45. Probate Court may issue Warrants and Processes.

46. In cases of Contumacy may commit to Jail.

47. When Depositions may be taken and used. 48. Exclusive Jurisdiction after once acquired.

49. Jurisdiction not to be collaterally impeached.

50. When minor may choose guardian; guardian interested; where appointed.

51. Authorized to permit sale and settle accounts of guardian.

52. Judges may appoint times and places for holding Courts.

53. Open at all times for certain business.

54. Adjournment of Court. When by Clerk.

Sec. 55. Appellate jurisdiction of Circuit Court. 56. Jurisdiction of Supreme Court in Probate matters.

57. Appeal to the Circuit Court to be taken within fifteen days.

58. Appellant to give bond to prosecute appeal.

59. Grounds of appeal to be filed.

60. Certified copies of record to be filed in Circuit Court.

61. Proceedings stayed by appeal.

62. How Circuit Court proceed to the trial.

63. Costs given to prevailing party.

- 64. Appellant neglecting to enter appeal, judgment affirmed with costs.
- 65. Final decision to be certified to Probate Court.
- 66. Probate Judge not to have voice in determining appeal. When may practice law.

67. All proceedings to be commenced by petition.

68. Supreme Court to make rules.

- 69. County Commissioners to provide all books, etc.
- 70. Judge may keep order and punish contempt.

Processes of Court—how executed.

72. Judge may commit lunatics, etc., to Lunatic Asylum.

73. Laws of Provisional Government, how far adopted. Transfer of record.

Sessions.

SEC. 35. A Court of Probate is hereby established in each of the several Counties in the State, which shall hold a session on the first Monday of each month at or near the court house, and continue thereafter so long. as the business may require.

Court of Record.

SEC. 36. The Court of Probate shall be a Court of Record, and have a seal, may appoint a Clerk, and may remove him at pleasure, and on failure of the Court to appoint such Clerk, the Judge of the Court may perform all the duties of Clerk.

Clerk.

SEC. 37. The Clerk of the Court of Probate shall keep a true and fair Duties of the record of each order, sentence and decree of the Court, and of all other things proper to be recorded; and on the legal fees being paid, shall give true and attested copies of the files and proceedings of the Court. copies so attested shall be legal evidence in the Courts of this State.

of Judges.

SEC. 38. Every Judge of Probate, in his County, shall have jurisdic-Jurisdiction tion in all matters testamentary, and of administration in business appertaining to minors and the allotment of dower, cases of idiocy and lunacy, and persons non compotes mentis.

to Guardians.

SEC. 39. The Judge of Probate shall have jurisdiction in relation to In relation the appointment and removal of guardians of minors, insane and idiotic persons, and persons non compotes mentis, and in relation to the duties imposed by law on such guardians, and the management and disposition or the estates of their wards. He shall exercise original jurisdiction in relation to trustees appointed by will in cases prescribed by law.

Titles partition real estate.

SEC. 40. He may exercise jurisdiction of all petitions for partition of and real estate where no dispute exists in relation to the title thereof; and of when the title to such real estate is disputed, he shall refer the same to the Circuit Court for adjudication, unless the parties shall consent to his determination of the same. The probate of the will and the granting of administration of the estate of any person deceased shall belong to the



Judge of Probate for the County in which such person was last an inhabitant; but if such person was not an inhabitant of this State, the same shall belong to the Judge of Probate in any County in which the greater part of his or her estate may be.

SEC. 41. All proceedings in relation to the settlement of the estate of of estate in any person deceased shall be had in the Probate Court of the County in County where which his will was proved or administration of estate was granted.

SEC. 41. All proceedings in relation to the settlement of the estate of Settlement of estate in County where which his will was proved or administration of estate was granted. which his will was proved or administration of estate was granted.

SEC. 42. All proceedings in relation to the property or estate of any person under guardianship shall be had in the Court of Probate of the ings relative County in which the guardian was appointed.

ounty in which the guardian was appointed.

SEC. 43. No Judge of Probate shall act as such in the settlement of Court of Proany estate wherein he is interested as heir or legatee, executor or administrator, or as guardian or trustee of any person; in every such case the to act when Judge of Probate of any adjoining County shall have jurisdiction, and interested.—

In such cases it shall be his duty ways application to attend at some term of the Count Indicases. it shall be his duty, upon application, to attend at some term of the Court Judges of ad-of Probate in which such case may be pending, which shall not interfere by to act. with the duties in his own County, and hear and determine such case.

SEC. 44. The Judge or Clerk of the Probate Court shall have power minister oath to administer all oaths necessary in the transaction of business before the Probate Court, and all oaths required by law to be administered to per-

sons executing trust under the appointment of said Court.

SEC. 45. Probate Courts may issue all warrants and processes, in conformity to the rules of law, which may be necessary to compel the at sue Warrants tendance of witnesses, or to carry into effect any order, sentence or decree and Processes

of such Courts, or the powers granted them by law.

Sec. 46. If any person shall refuse or neglect to perform any order, sentence or decree of a Probate Court, such Court may issue a warrant, contumacy to committe jail directed to any Sheriff or Constable in the State, requiring him to apprehend and imprison such person in the common jail of the County; and if there be no jail of the County, then in the jail of the adjoining County, until he shall perform such order, sentence or decree, or be delivered by due course of law.

SEC. 47. When a witness whose testimony is necessary to be used besitions may fore any Probate Court shall reside out of this State, (or more than thirty be taken and miles from the place of holding Court,) or by reason of age or bodily in-used. firmity shall be unable to attend in person, the Court may issue a commission to one or more competent persons to take the testimony of such witness; and depositions taken according to the provisions of the law for taking depositions to be used on the trial of civil causes may be used on the trial of any question before the Probate Court where such testimony may be proper.

SEC. 48. When any Probate Court shall have first taken cognizance of Exclusive juthe settlement of the estate of a deceased person, such Court shall have ter once action and the settlement of the estate of a deceased person, such Court shall have ter once action and the settlement of the estate of a deceased person, such Court shall have first taken cognizance of Exclusive juther taken cognizance of Exclusive juthe jurisdiction of the disposition and settlement of all the estate of such de-quired.

ceased person to the exclusion of all other Probate Courts.

SEC. 49 The jurisdiction assumed by any Probate Court in any case, Jurisdiction not to be colso far as it depends on the place of residence or the location of his estate, laterally shall not be contested in any suit or proceeding whatever, except in an peached. appeal from the Probate Court in the original case, or when the want of jurisdiction appears on the record.

Sec. 50. When, by law, a guardian is required to be appointed of a minor, who is interested as heir or legatee, or representative of such heir A. D. 1870.

All proceed-

In cases of

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interesteddian.

Authorized accounts guardian.

Judges may appoint times and places for holding Probate Courts.

Open at all times for certain business.

Of adjournment of Court

Appellate jurisdiction of

Jurisdiction

Appeal to the days.

Appellant to peal.

Grounds of

Certified copies of Record to be filed in

Proceedings stayed by appeal.

or legatee, in any estate which is in a course of settlement, such guardian shall be appointed by the Probate Court before which such estate is in course Guardian of settlement; but afterwards, if the minor shall reside in another County, and is of the age of fourteen years, he may choose and have a where to appoint when guardian appointed in the County where he shall reside; and in that a minor may case the powers of the first guardian shall cease. In all other cases guardians shall be appointed by the Probate Court of the County where the persons for whom the guardian shall be appointed shall reside.

SEC. 51. The Probate Court, by which a guardian shall be appointed, to permit sale and to settle shall have jurisdiction of the estate of the ward, and shall be alone authorized to permit the sale of such estate, and settle such guardian's

accounts.

SEC. 52. Except as provided in the first Section, the Probate Court in each County shall appoint such times and places for holding Courts as shall be judged most convenient for all persons interested, and shall give notice of such times and places in one or more newspapers circulating in the County.

SEC. 53. The Probate Court shall be deemed open at all times for the transaction of ordinary business which may be necessary, when previous notice is not required to be given to the persons interested.

Sec. 54. A Probate Court may be adjourned as occasion may require; when by the and when the Judge is absent at the time for holding a Court the Clerk may adjourn it.

Sec. 55. The Circuit Court shall have appellate jurisdiction of all mat-

Circuit Court. ters originally within the jurisdiction of the Probate Court.

SEC. 56. The Supreme Court shall have jurisdiction of all questions of of Supreme law arising in the course of the proceedings of the Circuit Court, in Court in Probate matters, bate matters, in the same manner as provided by law in other cases. law arising in the course of the proceedings of the Circuit Court, in Pro-

SEC. 57. Any person interested in any final order, sentence or decree Circuit Court of any Probate Court, and considering himself injured thereby, may apwithin afteen peal therefrom to the Circuit Court in the same County, at the stated session next after such appeal, and such appeal shall be granted by the Probate Court, if application be made and filed in the Clerk's Office within fifteen days from the date of the decision appealed from.

SEC. 58. In all cases of appeal from the proceedings of the Probate give bond to prosecute ap Court, before such appeal shall be allowed, the person appealing shall give a bond to the satisfaction of the Probate Court, with a condition that he shall prosecute such appeal to effect, and pay all intervening damages and costs occasioned by such appeal.

SEC. 59. In all cases of appeal the appellant shall file in the Probate Ofappeal to be fice his grounds of appeal, and cause a copy thereof to be served on the adverse party, at least twelve days before the time when the appeal is to be entered in the Circuit Court.

Sec. 60. The person appealing shall procure and file in the Circuit Court to which such appeal is granted a certified copy of the record of Circuit Court. the proceedings appealed from, of the application and grounds for the appeal filed in the Probate Court, and of the allowance of the same, together with the proper evidence that notice has been given to the adverse party according to law.

SEC. 61. When an appeal, according to law, is allowed by the Probate Court, all proceedings in pursuance of the order, sentence or decree appealed from shall cease until the judgment of the Circuit or Supreme

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Court is had; but if the appellant, in writing, waives his appeal before the entry thereof, proceedings may be had in the Probate Court as if no appeal had been taken.

SEC. 62. When such certified copy shall have been filed in the Circuit Court to propert, such Court shall proceed to the trial and determination of the quesceed to the Court, such Court shall proceed to the trial and determination of the question according to the rules of law; and if there shall be any question of fact or title to land to be decided, issue may be joined thereon under the di-

rection of the Court, and a trial thereof had by jury.

SEC. 63. The Circuit Court or Supreme Court, as the case may be, may tax costs for the party who shall prevail; or when, in the opinion of the to prevailing Court, Justice shall require it, the Court may deny such costs, and may tax costs for either party; and if costs be taxed against an executor or administrator the same shall be allowed to him in his administration account.

Costs given

trial.

SEC. 64. If the person appealing from the proceedings of the Probate Appellant no clourt, as provided in this Act, shall neglect to enter his appeal, the Cirter an appeal, cuit Court to which such appeal shall be taken, on motion, and produsirement after the court to which such appeal shall be taken, on motion, and produsirement after the court to which such appeals have been such as the court to the cour cing attested copies of such appeal by the adverse party, shall affirm the costs. proceedings appealed from, and may allow costs against the appellant.

SEC. 65. The final decision and judgment in cases appealed, as here-into the certified to the Probate Court by the Circuit tifled to Pro-Court or Supreme Court, as the case may be, and the same proceedings bate Court. shall be had in the Probate Court, as though such decision had been

made in such Probate Court.

Sec. 66. No Judge of any Probate Court shall be admitted to have Judge to have any voice in judging or determining any appeal from his decision, or be voice in determined. permitted to act as attorney or counsel thereon, or receive fees as counsel mining an appeal. in any matter pending in the Probate Court of which he is Judge: Pro- may practice vided, It shall be lawful for Judges of Probate to practice law in other law. Courts in such cases as are not cognizable in Court of Probate.

SEC. 67. All proceedings in the Court of Probate shall be commenced to be comby petition to the Judge of Probate for the County to whom the juris-menced by diction of the subject matter belongs, briefly setting forth the facts or partition.

grounds of the application.

SEC. 68. The Supreme Court may, from time to time, make rules regular to Supreme Court to make rules regular to Supreme Court to make rules regular to Supreme Court to make rules regular to the Court of Proulating the practice and conducting the business in the Courts of Pro-rules.

bate, in all cases not expressly provided for by law.

SEC. 69. The County Commissioners of each County shall provide all county Commissioners to books necessary for keeping the records; also, a seal and necessary office provide books furniture: Provided, Said furniture shall not exceed in cost the sum of ac. one hundred dollars.

SEC. 70. The Judge may keep order in Court, and punish any contempt of his authority in like manner as such contempt might be pun-

ished in the Circuit or Supreme Court.

Sec. 71. When costs are awarded, to be paid by one party to the other, Sec. 71. When costs are awarded, to be paid by one party to the other, Processes of the Courts of Probate, said Courts may issue execution therefor, in Court—how executed. like manner as is practiced in the Courts of common law; and when no form for a warrant or process is prescribed by statute or rules of Court, he shall frame one in conformity to the rules of law, and the usual course of proceedings in this State. Any Sheriff or Constable in the State shall execute the order or processes of said Court, in the same manner as the order or processes of the Circuit or Supreme Courts.

Judge may keep order & punish con-tempt.

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tics, &c., to Lunatic Asylum.

A. D. 1870.

SEC. 72. The Judge of the Probate Court may commit to the Lunatic Asylum any idiot, lunatic or person non composmentis, who, in his opinion, Judges may is so furiously mad as to render it manifestly dangerous to the peace and to safety of the community that he or she should be at large; and also, in all such other cases provided by law. In all cases the Judge shall certify in what place the said person or persons resided at the time of the commitment, and such certificate shall be conclusive evidence of such residence.

fur adopted.

Sec. 73. All laws and parts of laws of the late Provisional Govern-Laws of Pro- ment of South Carolina, relative to the powers, duties and course of provisional Government, how cedure of the Courts of Ordinary and Equity, as far as the jurisdiction of said Courts is herein conferred on the Courts of Probate, not inconsistent with the Constitution and this Act, or supplied by it, are hereby adopted and declared to be of force, and applicable to the Courts of Probate.

TITLE V.

OF THE COURTS OF TRIAL JUSTICES.

Sec. 74. Jurisdiction.

- Qualification of bail.
- 76. Justification of bail.
- 77. Allowance of bail.
- 78. Property, how taken when concealed in building or inclosure.
- 79. Property, how kept.
- 80. Claim of property by third person.
- No jurisdiction in certain cases.
- 82. Answer of title.
- 83. Undertaking.
- 84. Suit discontinued.
- 85. If undertaking not given.
- 86. The same.
- 87. New action.
- 88. Costs.
- 89. Answer of title as to one cause of action.
- Docketing judgments.
- 91. Rules.

Jurisdiction.

- SEC. 74. Trial Justices shall have civil jurisdiction in the following actions, and no others:
- 1. In actions arising on contracts for the recovery of money only, if the sum claimed does not exceed one hundred dollars.
- 2. An action for damages for injury to rights pertaining to the person, or the personal or real property, if the damages claimed do not exceed one hundred dollars, and in cases of bastardy.
- 3. An action for a penalty, fine or forfeiture, where the amount claimed or forfeited does not exceed one hundred dollars.
- 4. An action commenced by attachment of property, as now provided by statute, if the debt or damages claimed do not exceed one hundred dollars.

5. An action upon bond conditioned for the payment of money, not exceeding one hundred dollars, though the penalty exceed that sum, the judgment to be given for the sum actually due. Where the payments are to be made by installments, an action may be brought for each installment as it becomes due.

6. An action upon a surety bond taken by them, where the penalty or amount claimed does not exceed one hundred dollars.

7. An action upon a judgment rendered in a Court of a Trial Justice or an inferior Court in a city where such action is not prohibited by Scction ninety-four.

8. To take and enter judgment on the confession of a Defendant, where the amount confessed shall not exceed one hundred dollars, in the man-

ner prescribed by law.

9. An action for damages, fraud in the sale, purchase or exchange of personal property, if the damages claimed do not exceed one hundred dollars.

10. An action to recover the possession of personal property claimed, the value of which, as stated in the affidavit of the plaintiff, his agent or

attorney, shall not exceed the sum of one hundred dollars.

The plaintiff in such action, at the time of issuing the summons, but not afterwards, may claim the immediate delivery of such property as hereinafter provided.

Before any process shall be issued in an action to recover the possession of personal property, the Plaintiff, his agent or attorney, shall make proof by affidavit, showing:

1. That the Plaintiff is the owner, or entitled to immediate possession,

of the property claimed, particularly describing the same.

2. That such property is wrongfully withheld or detained by the de-

- 3. The cause of such detention or withholding thereof, according to the best knowledge, information and belief of the person making the affidavit.
- 4. That said personal property has not been taken for any tax, fine or assessment, pursuant to statute, or seized by virtue of an execution or attachment against the property of said plaintiff; or if so seized, that it is exempt from such seizure by statute.

5. The actual value of said personal property.

On receipt of such affidavit, and an undertaking, in writing, executed by one or more sufficient sureties, to be approved by the Trial Justice before whom such action is commenced, to the effect that they are bound in double the value of such property as stated in said affidavit, for the prosecution of said action, and for the return of said property to the Defendant, if return thereof be adjudged, and for the payment to him of such sum as may for any cause be recovered against said Plaintiff, the Trial Justice shall endorse upon said affidavit a direction to any Constable of the County in which said Trial Justice shall reside, requiring said Constable to take the property described therein from the Defendant, and keep the same, to be disposed of according to law; and the said Trial Justice shall at the same time issue a summons directed to the Defendant, and requiring him to appear before said Trial Justice at a time and place to be therein specified, and not more than twelve days from the date thereof, to answer the complaint of said Plaintiff; and the said sum-

mons shall contain a notice to the Defendant that, in case he shall fail to appear at the time and place therein mentioned, the Plaintiff will have judgment for the possession of the property described in said affidavit, with the costs and disbursements of said action.

The Constable to whom said affidavit, indorsement and summons shall be delivered, shall forthwith take the property described in said affidavit, if he can find the same, and shall keep the same in his custody. He shall thereupon, without delay, serve upon said defendant a copy of such affidavit, notice, and summons, by delivering the same to him personally, if he can be found in said County; if not found, to the agent of the defendant in whose possession said property shall be found; if neither can be found, by leaving such copies at the last or usual place of abode of the defendant, with some person of suitable age and discretion. And shall forthwith make a return of his proceedings thereon, and the manner of serving the same, to the Trial Justice who issued the said summons.

The defendant may at any time after such service, and at least two days before the return-day of said summons, serve upon plaintiff, or upon the Constable who made such service, a notice in writing that he excepts to the sureties in said bond or undertaking; and if he fail to do so, all objection thereto shall be waived. If such notice be served, the sureties shall justify, or the plaintiff give new sureties on the return-day of said summons, who shall then appear and justify, or said Trial Justice shall order said property delivered to defendant, and shall also render judgment for defendant's costs and disbursements.

At any time before the return-day of said summons, the said defendant may, if he has not excepted to plaintiff's sureties, require the return of said property to him upon giving to the plaintiff, and filing same with the Trial Justice, a written undertaking, with one or more sureties, who shall justify before said Trial Justice on the return-day of said summons, to the effect that they are bound in double the value of said property, as stated in plaintiff's affidavit, for the delivery thereof to said plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may for any cause be recovered against said defendant; and if such return be not required before the return-day of said summons, the property shall be delivered to said plaintiff.

Qualifications of bail. Sec. 75. The qualification of bail must be as follows:

1. Each of them must be a resident, and householder or freeholder within the State.

2. They must each be worth the amount specified in the order of arrest, exclusive of property exempt from execution; but the Judge or a Trial Justice, on justification, may allow more than two bail to justify severally in amounts less than that expressed in the order, if the whole justification be equivalent to that of two sufficient bail.

Sec. 76. For the purpose of justification, each of the bail shall attend before the Judge or a Trial Justice at the time and place mentioned in the notice, and may be examined on oath, on the part of the plaintiff, touching his sufficiency, in such manner as the Judge or Trial Justice, in his discretion, may think proper. The examination shall be reduced to writing, and subscribed by the bail, if required by the plaintiff.

Sec. 77. If the Judge or Trial Justice find the bail sufficient, he shall annex the examination to the undertaking, indorse his allowance thereon,

Justification of bail.

and cause them to be filed with the Clerk; and the Sheriff shall thereupon be exonerated from liability.

Sec. 78. If the property, or any part thereof, be concealed in a build- Propertying or enclosure, the Constable shall publicly demand its delivery. If it concealed in be not delivered, he shall cause the building or inclosure to be broken building. open, and take the property into his possession; and, if necessary, he may call to his aid the power of his County.

SEC. 79. When a Constable shall have taken property, as in this chapter provided, he shall keep it in a secure place, and deliver it to the party how kept. entitled thereto, upon receiving his lawful fees for taking, and his neces-

sary expenses for keeping the same.

SEC. 80. If the property taken be claimed by any other person than Claim of property by third the defendant or his agent, and such person shall make affidavit of his person. title thereto, and right to the possession thereof, stating the grounds of such right and title, and serve the same upon the Constable, the Constable shall not be bound to keep the property, or deliver it to the plaintiff, unless the plaintiff, on demand of him or his agent, shall indemnify the Constable against such claim, by an undertaking, executed by two sufficient sureties, accompanied by their affidavits, that they are each worth double the value of the property as specified in the affidavit of the plaintiff, and freeholders and householders of the County. And no claim to such property, by any other person than the defendant or his agent, shall be valid against the Constable, unless made as aforesaid; and notwithstanding such claim, when so made, he may retain the property a reasonable time to demand such indemnity.

The actions so commenced shall be tried in all respects as other actions

are tried in Trial Justices' Courts.

The judgment for the Plaintiff may be for the possession, or for the recovery of the possession, or the value thereof, in case a delivery cannot be had, and of damages for the detention. If the property have been delivered to the Plaintiff, and the Defendant claim a return thereof, judgment for the Defendant may be for a return of the property, or the value thereof, in case a return cannot be had, and damages for taking and withholding the same. An execution shall be issued thereon, and if the judgment be for the delivery of the possession of personal property, it shall require the officer to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may at the same time require the officer to satisfy any costs or damages recovered by the same judgment out of the personal property of the party against whom it was rendered, to be specified therein, if a delivery thereof cannot be had. The execution shall be returnable within sixty days after its receipt by the officer, to the Trial Justice who issued the same.

In all actions for the recovery of the possession of personal property, as herein provided, if the property shall not have been delivered to Plaintiff, or the Defendant, by answer, shall claim a return thereof, the Trial Justice or Jury shall assess the value thereof, and the injury sustained by the prevailing party by reason of the taking or detention thereof, and the Trial Justice shall render judgment accordingly, with costs and dis-

bursements.

If it shall appear by the return of a Constable that he has taken the property described in the Plaintiff's affidavit, and that Defendant cannot be found, and has no last place of abode in said County, or that no agent

of Defendant could be found on whom service could be made, the Trial Justice may proceed with the cause in the same manner as though there had been a personal service.

For the indorsement on said affidavit the Trial Justice shall receive an additional fee of twenty-five cents, which shall be included in the costs

of the suit.

No jurisdiction in certain **Cases.**

Sec. 81. But no Trial Justice shall have cognizance of a civil action:

1. In which the State is a party, excepting for penalties not exceeding one hundred dollars.

2. Nor where the title to real property shall come in question.

3. Nor of a civil action for an assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation, or seduction; where the damages claimed exceed one hundred dollars.

4. Nor of an action against an executor or administrator as such.

Answer of title.

Sec. 82. In every action brought in a Court of Trial Justice, where the title to real property shall come in question, the Defendant may, either with or without other matter of defence, set forth in his answer any matter showing that such title will come in question. Such answer shall be in writing, signed by the Defendant or his attorney, and delivered to the Trial Justice. The Trial Justice shall thereupon countersign the same, and deliver it to the Plaintiff.

Written undertaking be given.

SEC. 83. At the time of answering the Defendant shall deliver to the Trial Justice a written undertaking, executed by at least one sufficient surety, and approved by the Trial Justice, to the effect that if the Plaintiff shall, within twenty days thereafter, deposit with the Trial Justice a summons and complaint in an action in the Circuit Court for the same cause, the Defendant will, within twenty days after such deposit, give an admission in writing of the service thereof.

Where the defendant was arrested in the action before the Trial Justice, the undertaking shall further provide, that he will, at all times, render himself amenable to the process of the Court during the pending of the action, and to such as may be issued to enforce the judgment In case of failure to comply with the undertaking, the surety therein.

shall be liable not exceeding one hundred dollars.

Action discontinued Costs.

SEC. 84. Upon the delivery of the undertaking to the Trial Justice, the action before him shall be discontinued, and each party shall pay his The costs so paid by either party shall be allowed to him if he recover costs in the action to be brought for the same cause in the Supreme Court. If no such action be brought within thirty days after the delivery of the undertaking, the defendant's costs before the Trial Justice may be recovered of the plaintiff.

Sec. 85. If the undertaking be not delivered to the Trial Justice, he shall have jurisdiction of the cause, and shall proceed therein; and the defendant shall be precluded, in his defence, from drawing the title in

question.

If undertaking not given.

The same.

SEC. 86. If, however, it appear on the trial, from the plaintiff's own showing, that the title to real property is in question, and such title shall be disputed by the defendant, the Trial Justice shall dismiss the action and render judgment against the plaintiff for the costs.

tion may brought.

SEC. 87. When a suit before a Trial Justice shall be discontinued by Another ac- the delivery of an answer and undertaking, as provided in Sections eightytwo, eighty-three, eighty-four, the plaintiff may prosecute an action for the same cause in the Circuit Court, and shall complain for the same cause of action only on which he relied before the Trial Justice; and the. answer of the defendant shall set up the same defence only which he made before the Trial Justice.

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SEC. 88. If the judgment in the Circuit Court be for the plaintiff, he shall recover costs; if it be for the defendant, he shall recover costs, except that upon a verdict he shall pay costs to the plaintiff, unless the Judge certify that the title to real property came in question on the

Costs.

SEC. 89. If, in an action before a Trial Justice, the plaintiff have Answerofti-several causes of action, to one of which the defence of title to real cause of action, to one of which the defendant shall tion. Transproperty shall be interposed, and as to such cause the defendant shall tion. Transdeliver and answer an undertaking, as provided in Sections eighty-two circuit court. and eighty-three, and the Trial Justice shall discontinue the proceedings as to that cause, and the plaintiff may commence another action therefor in the Circuit Court. As to the other causes of action, the Trial Justice may continue his proceedings.

SEC. 90. A Trial Justice, on the demand of a party in whose favor he shall have rendered a judgment, shall give a transcript thereof, which may judgment Justices. be filed and docketed in the office of the Clerk of the County where the judgment was rendered. The time of the receipt of the transcript by the Clerk shall be noted thereon and entered in the docket; and from that time the judgment shall be a judgment of the County Court. transcript of such judgment may be filed and docketed in the Clerk's office of any other County, and with the like effect, in every respect, as in the County where the judgment was rendered. But no such judgment for a less sum than twenty-five dollars, exclusive of costs, shall be so

Docketing

SEC. 91. The following rules shall be observed in the Courts of Trial Justices:

Rules.

1. The pleadings in these Courts are: 1. The complaint by the plaintiff;

2. The answer by the defendant.

docketed or enforced against real property.

- 2. The pleadings may be oral or in writing; if oral, the substance of them shall be entered by the Trial Justice in his docket; if in writing, they shall be filed by him, and a reference to them shall be made in the docket.
- The complaint shall state, in a plain and direct manner, the facts constituting the cause of action.
- 4. The answer may contain a denial of the complaint, or any part thereof, and also a notice, in a plain and direct manner, of any facts constituting a defence or counter claim.

5. Pleadings are not required to be in any particular form, but must be such as to enable a person of common understanding to know what is intended.

- 6. Either party may demur to a pleading of his adversary, or any part thereof, when it is not sufficiently explicit to enable him to understand it, or it contains no cause of action or defence, although it be taken as true
- 7. If the Court deem the objection well founded, it shall order the pleading to be amended; and if the party refuse to amend, the defective pleading shall be disregarded.

- 8. In case a defendant does not appear and answer, the plaintiff can-. not recover without proving his case.
- 9. In an action or defence founded upon an account, or an instrument for the payment of money only, it shall be sufficient for a party to deliver the account or instrument to the Court, and to state that there is due to him thereon, from the adverse party, a specified sum, which he claims to recover or set off.
- 10. A variance between the proof on the trial and the allegations in a pleading shall be disregarded as immaterial, unless the Court shall be satisfied that the adverse party has been misled to his prejudice thereby.
- 11. The pleadings may be amended at any time before the trial, or during the trial, or upon appeal, when, by such amendment, substantial justice will be promoted. If the amendment be made after the joining of the issue, and it be made to appear to the satisfaction of the Court, by oath, that an adjournment is necessary to the adverse party, in consequence of such amendment, an adjournment shall be granted. The Court may also, in its discretion, require, as a condition of an amendment, the payment of costs to the adverse party.
- 12. Execution may be issued on a judgment, heretofore or hereafter rendered in Trial Justice's Court, at any time within five years after the rendition thereof, and shall be returnable sixty days from the date of the
- 13. If the judgment be docketed with the Clerk of the Circuit Court, the execution shall be issued by him to the Sheriff of the County, and have the same effect, and be executed in the same manner, as other executions and judgments of the Circuit Court.
- 14. The Court may, at the joining of the issue, require either party, at the request of the other, at that or some other specified time, to exhibit his account, or state the nature thereof, as far forth as may be in his power, and, in case of his default, preclude him from giving evidence of such parts thereof as shall not have been so exhibited or stated.
- 15. The provisions of this Act respecting forms of action, parties to actions, the rules of evidence, the times of commencing actions, and the service of process upon corporations, shall apply to these Courts.

The defendant may, on the return of process, and before answering, make an offer in writing to allow judgment to be taken against him for an amount, to be stated in such offer, with costs. The plaintiff shall thereupon, and before any other proceedings shall be had in the action, determine whether he will accept or reject such offer. If he accept the offer, and give notice thereof in writing, the Trial Justice shall file the offer and the acceptance thereof, and render judgment accordingly. notice of acceptance be not given, and if the Plaintiff fail to obtain judgment for a greater amount, exclusive of costs, than has been specified in the offer, he shall not recover costs, but shall pay to the Defendant his costs accruing subsequent to the offer.

· PART II.

A. D. 1870.

OF CIVIL ACTIONS.

TITLE I. Of their form.

II. Of the time of commencing them.

III. Of the parties.

IV. Of the place of trial.

V. Of the manner of commencing them.

VI. Of the pleadings.

VII. Of the provisional remedies.

VIII. Of the trial and judgment.

IX. Of the execution of the judgment.

X. Of the costs. XI. Of appeals.

XII. Of the miscellaneous proceedings.

XIII. Actions in particular cases.

XIV. Provisions relating to existing suits.

XV. General provisions.

TITLE I.

FORM OF CIVIL ACTIONS.

Sec. 92. Distinction between actions at law and suits in equity abolished.

93. Parties, how designated.

94. Actions on Judgments.

95. Feigned issues abolished.

SEC. 92. The distinction between actions at law and suits in equity, Distinction and the forms of all such actions and suits, heretofore existing, are aboltons at law ished; and there shall be in this State, hereafter, but one form of action and suits in for the enforcement or protection of private rights and the redress of prished. vate wrongs, which shall be denominated a civil action.

SEC. 93. In such action, the party complaining shall be known as the Parties, how designated.

plaintiff, and the adverse party as the defendant.

SEC. 94. No action shall be brought upon a judgment rendered in any Court in this State, except a Court of Trial Justice, between the same par- judgments. ties, without leave of the Court, for good cause shown, on notice to the adverse party; and no action on a judgment rendered by a Trial Justice shall be brought in the same County within five years after its rendition, except in case of his death, resignation, incapacity to act, or removal from the County, or that the process was not personally served on the defendant, or on all the defendants, or in case of the death of some of the parties, or where the docket or record of such judgment is or shall have been lost or destroyed.

SEC. 95. Feigned issues are abolished; and instead thereof, in the cases sues abolished where the power now exists to order a feigned issue, or when a question ed.

Actions on

of fact, not put in issue by the pleadings, is to be tried by a jury, an order for the trial may be made, stating distinctly and plainly the question of fact to be tried; and such order shall be the only authority necessary for a trial.

TITLE II.

TIME OF COMMENCING CIVIL ACTIONS.

CHAPTER I. Actions generally.

II. For the recovery of real property.

III. Other than for the recovery of real property.

IV. General provisions.

CHAPTER I.

SEC. 96. Repeal of existing limitations. 97. Time for commencing actions, etc.

SEC. 96. The provisions of this title shall not extend to actions already commenced, or to cases where the right of action has already accrued; but the statutes now in force shall be applicable to such cases, according to the subject of the action, and without regard to the form.

Period of scribed in this title, after the cause of action shall have accrued, except where, in special cases, a different limitation is prescribed by statute, and in the cases mentioned in Section ninety-six.

But the objection that the action was not commenced within the time

limited can only be taken by answer.

CHAPTER II.

SEC. 98. When the State will not sue.

99. When action cannot be brought by grantee from the State.

100. When action by the State or their grantees to be brought within twenty years.

101. Seizin within twenty years, when necessary.

102. Seizin within twenty years, when necessary in action or defence founded on title, &c.

103. Action after entry, or right of entry.

104. Possession, when presumed. Occupation, when deemed under legal title.

105. Occupation under written instrument, &c.

106. Adverse possession under written instrument, &c.

107. Premises actually occupied, held adversely.

108. Adverse possession under claim of title not written.

109. Relation of landlord and tenant, as affecting adverse possession.

110. Descent cast-effect of.

111. Persons under disability.



SEC. 98. The State will not sue any person for or in respect to any real property, or the issues or profits thereof, by reason of the right or title of the State to the same, unless:

A. D. 1870. When the State will not

 Such right or title shall have accrued within forty years before any suc. action or other proceeding for the same shall be commenced; or unless,

2. The State, or those from whom it claims, shall have received the rents and profits of such real property, or of some part thereof, within the space of forty years.

Sec. 99. No action shall be brought for, or in respect to, real property, by any person claiming by virtue of letters patent or grants from the State, ungrantee from less the same might have been commenced by the State as herein specified, the State.

in case such patent or grant had not been issued or made.

SEC. 100. When letters patent or grants of real property shall have When actions been issued or made by the State, and the same shall be declared void by the State by the determination of a competent Court, rendered upon an allegation be brought within twenty tion of a fraudulent suggestion, or concealment, or forfeiture, or mistake, years. or ignorance of a material fact, or wrongful detaining, or defective title, in such case an action for the recovery of the premises so conveyed may be brought either by the State, or by any subsequent patentee or grantee of the premises, his heirs or assigns, within twenty years after such determination was made, but not after that period.

Sec. 101. No action for the recovery of real property, or for the recovery serious twenty years ery of the possession thereof, shall be maintained, unless it appear that when necessions are recovery of real property, or for the recovery serious thereof. the plaintiff, his ancestor, predecessor or grantor was seized or possessed sary. of the premises in question within twenty years before the commence-

ment of such action.

SEC. 102. No cause of action, or defence to an action, founded upon Seizin within the title to real property, or to rents or services out of the same, shall be when in aceffectual, unless it appear that the person prosecuting the action or defence founded making the defence or under whee title the action is prosecuted or the continued making the defence, or under whose title the action is prosecuted or the on title. defence is made, or the ancestor, predecessor or grantor of such person, was seized or possessed of the premises in question within twenty years before the committing of the act in respect to which such action is prosecuted or defence made.

SEC. 103. No entry upon real estate shall be deemed sufficient or valid, Action after entry or right as a claim, unless an action be commenced thereupon within one year of entry. after the making of such entry, and within twenty years from the time

when the right to make such entry descended or accrued.

Sec. 104. In every action for the recovery of real property, or the possession thereof, the person establishing a legal title to the premises shall be presumed to have been possessed thereof within the time required by law; and the occupation of such premises by any other person when deemed shall be deemed to have been under and in subordination to the legal ti-under tle, unless it appear that such premises have been held and possessed adversely to such legal title for twenty years before the commencement of such action.

Sec. 105. Whenever it shall appear that the occupant, or those under whom he claims, entered into the possession of premises under claim of under written title, exclusive of any other right, founding such claim upon a written instrument, as being a conveyance of the premises in question, or upon the decree or judgment of a competent Court, and that there has been a continued occupation and possession of the premises included in such instru-

Possession presumed.

Occupation

ment, decree or judgment, or of some part of such premises, under such claim, for twenty years, the premises so included shall be deemed to have been held adversely; except that where the premises so included consist of a tract divided into lots, the possession of one lot shall not be deemed a possession of any other lot of the same tract.

Adverse possession.

Sec. 106. For the purpose of constituting an adverse possession, by any person claiming a title founded upon a written instrument or a judgment or decree, land shall be deemed to have been possessed and occupied in the following cases:

1. Where it has been usually cultivated or improved; 2. Where it has been protected by a substantial inclosure;

3. Where, although not inclosed, it has been used for the supply of fuel or of fencing timber, for the purposes of husbandry or the ordinary

use of the occupant;

4. Where a known farm or a single lot has been partly improved, the portion of such farm or lot that may have been left not cleared or not inclosed, according to the usual course and custom of the adjoining country, shall be deemed to have been occupied for the same length of time as the part improved and cultivated.

versely.

SEC. 107. Where it shall appear that there has been an actual con-Premises actinued occupation of premises, under a claim of title, exclusive of any tually occu-pied held ad- other right, but not founded upon a written instrument or a judgment or decree, the premises so actually occupied, and no other, shall be deemed to have been held adversely.

SEC. 108. For the purpose of constituting an adverse possession, by a Adverse possession under person claiming title not founded upon a written instrument or a judgaciaim not ment or decree, land shall be deemed to have been possessed and occupied in the following cases only:

Where it has been protected by a substantial inclosure;

Where it has been usually cultivated or improved.

Relation of tenant.

written.

SEC. 109. Whenever the relation of landlord and tenant shall have landlord and existed between any persons, the possession of the tenant shall be deemed the possession of the landlord, until the expiration of twenty years from the termination of the tenancy; or, where there has been no written lease, until the expiration of twenty years from the time of the last payment of rent, notwithstanding that such tenant may have acquired another title, or may have claimed to hold adversely to his landlord. presumptions shall not be made after the periods herein limited.

Descent cast.

SEC. 110. The right of a person to the possession of any real property shall not be impaired or affected by a descent being cast in consequence

of the death of a person in possession of such property.

Persons un-Lies.

SEC. 111. If a person entitled to commence any action for the recovery der disabili- of real property, or to make an entry or defence founded on the title to real property, or to rents or services out of the same, be, at the time such title shall first descend or accrue, either-

1. Within the age of twenty-one years; or,

2. Insane; or,

3. Imprisonment on a criminal charge, or in execution upon conviction of a criminal offence for a term less than for life; the time during which such disability shall continue shall not be deemed any portion of the time in this chapter limited for the commencement of such action or the making of such entry or defence; but such action may be commenced, or



entry or defence made, after the period of twenty years, and within ten vears after the disability shall cease, or after the death of the person entitled who shall die under such disability; but such action shall not be commenced, or entry or defence made, after that period.

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CHAPTER III.

TIME OF COMMENCING ACTIONS OTHER THAN FOR THE RECOVERY OF REAL PROPERTY.

Sec. 112. Limitation prescribed.

113. Twenty years.

114. Six years.

115. Three years.

116. Two years.

117. One year.

118. Action upon a current account.

119. Action for penalties.

120. Action for other relief.

121. Action by the people.

SEC. 112. The periods prescribed in Section ninety-seven for the com- Period of limmencement of actions other than for the recovery of real property shall scribed. be as follows:

SEC. 113. Within twenty years:

Twenty years.

1. An action upon a judgment or decree of any Court of the United States, or of any State or Territory within the United States.

2. An action upon a sealed instrument.

SEC, 114. Within six years:

Six years.

1. An action upon a contract obligation or liability, express or implied, excepting those mentioned in Section one hundred and thirteen.

2. An action upon a liability created by statute, other than a penalty or forfeiture.

An action for trespass upon real property.

4. An action for taking, detaining or injuring any goods or chattels,

including actions for the specific recovery of personal property.

5. An action for criminal conversation, or for any other injury to the person or rights of another, not arising on contract, and not hereinafter enumerated.

6. An action for relief on the ground of fraud, in cases which heretofore were solely cognizable by the Court of Chancery, the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud.

Sec. 115. Within three years:

Three years.

1. An action against a Sheriff, Coroner or Constable, upon a liability incurred by the doing of an act in his official capacity, and in virtue of his office, or by the omission of an official duty, including the non-payment of money collected upon an execution. But this Section shall not apply to an action for an escape.

2. An action upon a statute, for a penalty or forfeiture, where the

action is given to the party aggrieved, or to such party and the State, except where the statute imposing it prescribes a different limitation.

Two years.

SEC. 116. Within two years:

 An action for libel, slander, assault, battery or false imprisonment. An action upon a statute, for a forfeiture or penalty to the State.

SEC. 117. Within one year: One year.

1. An action against a Sheriff or other officer, for the escape of a prisoner arrested or imprisoned on civil process.

Action upon a current account.

Sec. 118. In an action brought to recover a balance due upon a mutual, open and current account, where there have been reciprocal demands between the parties, the cause of action shall be deemed to have accrued from the time of the last item proved in the account on either side.

Action for

Sec. 119. An action upon a statute, for a penalty or forfeiture given, penalties, &c. in whole or in part, to any person who will prosecute for the same, must be commenced within one year after the commission of the offence; and if the action be not commenced within the year by a private party, it may be commenced within two years therafter, in behalf of the State, by the Attorney-General or the Solicitor of the Circuit where the offence was committed.

Actions for other relief.

Sec. 120. An action for relief not hereinbefore provided for must be commenced within ten years after the cause of action shall have accrued.

Actions by the State.

Sec. 121. The limitations prescribed in this chapter shall apply to actions brought in the name of the State, or for its benefit, in the same manner as to actions by private parties.

CHAPTER IV.

GENERAL PROVISIONS AS TO THE TIME OF COMMENCING ACTIONS.

Sec. 122. When action deemed commenced.

123. Exception, defendant out of State

124. Exception as to person under disabilities.

125. Death of person entitled before limitation expires.

126. Suits by aliens.

127. Where judgment reversed.

128. Stay of action by injunction, &c.

129. Disability must exist when right accrued.

130. Two or more disabilities.

This title, when not to apply.

132. The like.

133. New promise must be in writing.

When action menced.

Sec. 122. An action is commenced as to each defendant when the sumdeemed commons is served on him, or on a co-defendant, who is a joint contractor, or otherwise united in interest with him. An attempt to commence an action is deemed equivalent to the commencement thereof, within the meaning of this title, when the summons is delivered, with the intent that it shall be actually served, to the Sheriff or other officer of the County in which the defendants or one of them usually or last resided; or, if a corpora-

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tion be defendant, to the Sheriff or other officer of the County in which such corporation was established by law, or where its general business was transacted, or where it kept an office for the transaction of business.

SEC. 123. If, when the cause of action shall accrue against any person, he shall be out of the State, such action may be commenced within the detendant terms herein respectively limited, after the return of such person into this State; and if, after such cause of action shall have accrued, such person shall depart from and reside out of this State, or remain continuously absent therefrom for the space of one year or more, the time of his absence shall not be deemed or taken as any part of the time limited for the commencement of such action.

Exception, defendantout

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Sec. 124. If a person entitled to bring an action mentioned in the last chapter, except for a penalty or forfeiture, or against a Sheriff or disabilities. other officer, for an escape, be at the time the cause of action accrued, either.

Exceptions,

- 1. Within the age of twenty-one years; or,
- 2. Insane; or,
- 3. Imprisoned on a criminal charge; or, in execution under the sentence of a criminal Court, for a term less than his natural life; the time of such disability is not a part of the time limited for the commencement of the action; except that the period within which the action must be brought cannot be extended more than five years by any such disability, except infancy; nor can it be so extended in any case longer than one year after the disability ceases.

SEC. 125. If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of before limitaaction survive, an action may be commenced by his representatives, after tion expires. the expiration of that time, and within one year from his death. person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced against his executors or administrator after the expiration of that time, and within one year after the issuing of letters testamentary or of administration.

Death of per-

SEC. 126. When a person shall be an alien subject or citizen of a country at war with the United States, the time of the continuance of the war shall not be part of the period limited for the commencement of the action.

Action of ali-

Sec. 127. If an action shall be commenced within the time prescribed therefor, and a judgment therein be reversed on appeal, the plaintiff, or, me if he die and the cause of action survive, his heirs or representatives, may commence a new action within one year after the reversal.

Where judgment revers-

SEC. 128. When the commencement of an action shall be stayed by injunction or statutory prohibition, the time of the continuance of the by injunction, injunction or prohibition shall not be part of the time limited for the commencement of the action.

Time of stay

SEC. 129. No person shall avail himself of a disability, unless it 'Disabilityexisted when his right of action accrued.

not available.

SEC. 130. When two or more disabilities shall co-exist at the time the Co-existing disabilities. right of action accrues, the limitation shall not attach until they all be removed.

Bills, notes,

SEC. 131. This title shall not affect actions to enforce the payment of &c.

bills, notes, or other evidences of debt, issued by moneyed corporations,

or issued or put in circulation as money.

Stockholders.

SEC. 132. This title shall not affect actions against Directors or stock-This title not holders of a moneyed corporation, or banking associations, to recover a tious against penalty or forfeiture imposed, or to enforce a liability created by law; Directors or but such actions must be brought within six years after the discovery, by but such actions must be brought within six years after the discovery, by the aggrieved party, of the facts upon which the penalty or forfeiture

attached, or the liability was created.

Acknowlin writing.

SEC. 133. No acknowledgment or promise shall be sufficient evidence edgment or of a new or continuing contract, whereby to take the case out of the new promise operation of this title, unless the same be contained in some writing signed by the party to be charged thereby; but this Section shall not alter the effect of any payment of principal or interest.

TITLE III.

PARTIES TO CIVIL ACTIONS.

SEC. 134. Party in interest to sue. Action by grantee of land held adversely.

135. Assignment of thing in action.

136. Actions by executor, trustee, &c.

137. Actions by and against married women.

138. Infants, actions by and against.

139. Guardian, how appointed.

140. Who may be plaintiffs.

141. Who may be defendants.

142. One or more may sue or defend for all.

143. One action against the different parties to bills and notes.

144. Action, when not to abate.

145. Court to decide controversy, &c. Interpleading.

SEC. 134. Every action must be prosecuted in the name of the real Action to be party in interest, except as otherwise provided in Section one hundred by party in and thirty-six; but this Section shall not be deemed to authorize the astion by gran-signment of a thing in action not arising out of contract. But an acheld adverse- tion may be maintained by a grantee of land in the name of the grantor, or his or her heirs or legal representatives, when the grant or grants are void by reason of the actual possession of a person claiming under a title adverse to that of the grantor at the time of the delivery of the grant, and the plaintiff shall be allowed to prove the facts to bring the case within this provision.

action.

SEC. 135. In the case of an assignment of a thing in action, the action Assignment by the assignee shall be without prejudice to any set-off or other defence of a thing in existing at the time of, or before notice of, the assignment; but this Section. tion shall not apply to a negotiable promissory note or bill of exchange, transferred in good faith, and upon good consideration, before due.

SEC. 136. An executor or administrator, a trustee of an express trust, Action by ex- or a person expressly authorized by statute, may sue, without joining ecutor, trus- with him the person for whose benefit the action is prosecuted. A trus-

tee of an express trust, within the meaning of this Section, shall be construed to include a person with whom or in whose name a contract is

made for the benefit of another. SEC. 137. When a married woman is a party, her husband must be Action by and against a married woman.

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- When the action concerns her separate property, she may sue or be sued alone: Provided, That neither her husband nor his property shall be liable for any recovery against her in any such suit, but judgment may be enforced by execution against her sole and separate estate in the same manner as if she were sole.
- 2. When the action is between herself and her husband, she may sue or be sued alone; and in no case need she prosecute or defend by a guardian or next friend.

SEC. 138. When an infant is a party, he must appear by guardian, who may be appointed by the Court in which the action is prosecuted, or by guara Judge thereof, or a Probate Judge.

SEC. 139. The guardian shall be appointed as follows:

joined with her, except that,

Infant to ap-

Appointment

of guardian.

1. When the infant is plaintiff, upon the application of the infant, if he be of the age of fourteen years; or, if under that age, upon the application of his general or testamentary guardian, if he has any, or of a relative or friend of the infant; if made by a relative or friend of an infant, notice thereof must first be given to such guardian, if he has one; if he has none, then to the person with whom such infant resides.

2. When the infant is defendant, upon the application of the infant, if he be of the age of fourteen years, and apply within twenty days after service of the summons. If he be under the age of fourteen, or neglect so to apply, then upon the application of any other party to the action, or of a relative or friend of the infant, after notice of such application being first given to the general or testamentary guardian of such infant, if he has one within this State; if he has none, then to the infant himself, if over fourteen years of age, and within the State; or, if under that age, and within the State, to the person with whom such infant resides. And in actions for the partition of real property, or for the foreclosure of a mortgage or other instrument, when an infant defendant resides out of this State, or is temporarily absent therefrom, the plaintiff may apply to the Court in which the action is pending, at any stated or special term thereof, and will be entitled to an order designating some suitable person to be the guardian for the infant defendant, for the purposes of the action, unless the infant defendant, or some one in his behalf, within a number of days after the service of a copy of the order, which number of days shall be in the said order specified, shall procure to be appointed a guardian for the said infant, and the Court shall give special directions in the order for the manner of the service thereof, which may be upon the infant.

And in case an infant-defendant having an interest in the event of the action shall reside in any State with which there shall not be a regular communication by mail, on such fact satisfactorily appearing to the Court, the Court may appoint a guardian ad litem for such absent infant party, for the purpose of protecting the right of such infant in said action, and on such guardian ad litem process, pleadings and notices in the action may be served in the like manner as upon a party residing in this State.

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plaintiffs.

SEC. 140. All persons having an interest in the subject of the action, and in obtaining the relief demanded, may be joined as plaintiffs, except

Who to be as otherwise provided in this title.

defendant.

SEC. 141. Any person may be made a defendant who has or claims an Who to be interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the questions involved therein; and in an action to recover the possession of real estate, the landlord and tenant thereof may be joined as defendants; and any person claiming title or a right of possession to real estate may be made parties plaintiff or defendant, as the case may require, to any such actions.

joined, &c.

SEC. 142. Of the parties to the action, those who are united in interest Parties to be must be joined as plaintiffs or defendants; but if the consent of any one who should have been joined as plaintiff cannot be obtained, he may be made a defendant, the reason thereof being stated in the complaint; and when the question is one of a common or general interest of many persons, or when the parties are very numerous and it may be impracticable to bring them all before the Court, one or more may sue or defend for the benefit of the whole.

Sec. 143. Persons severally liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, may all, or any of them, be included in the same action, at the option of the

plaintiff.

abate.

SEC. 144. No action shall abate by the death, marriage, or other dis-Of existing ability of a party, or by the transfer of any interest therein, if the cause when not to of action survive or continue. In case of death, marriage, or other disability of a party, the Court, on motion, at any time within one year thereafter, or afterwards, on a supplemental complaint, may allow the action to be continued by or against his representative or successor in in-In case of any other transfer of interest, the action shall be continued in the name of the original party, or the Court may allow the person to whom the transfer is made to be substituted in the action.

After a verdict shall be rendered in any action for a wrong, such action shall not abate by the death of any party, but the case shall proceed thereafter in the same manner as in cases where the cause of action now

survives by law.

At any time after the death, marriage, or other disability of the party plaintiff, the Court in which an action is pending, upon notice to such persons as it may direct, and upon application of any person aggrieved, may, in its discretion, order that the action be deemed abated, unless the same be continued by the proper parties, within a time to be fixed by the Court, not less than six months nor exceeding one year from the granting of the order.

Court may determine a controversy, &c.

Sec. 145. The Court may determine any controversy between the parties before it, when it can be done without prejudice to the rights of others, or by saving their rights; but when a complete determination of the controversy cannot be had without the presence of other parties, the Court must cause them to be brought in. And when, in an action for the recovery of real or personal property, a person not a party to the action, but having an interest in the subject thereof, makes application to the Court to be made a party, it may order him to be brought in by the proper amendment.

A defendant against whom an action is pending upon a contract, or for specific, real, or personal property, may at any time before answer, upon affidavit that a person not a party to the action, and without collusion by Interpleader. him, makes against him a demand for the same debt or property, upon due notice to such person and the adverse party, apply to the Court for an order to substitute such person in his place, and discharge him from liability to either party, on his depositing in Court the amount of the debt, or delivering the property or its value to such person as the Court may direct; and the Court may, in its discretion, make the order.

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TITLE IV.

OF THE PLACE OF TRIAL OF CIVIL ACTIONS.

Sec. 146. Actions to be tried where subject-matter situated.

147. Actions to be tried where cause of action arose.

148. Actions to be tried where the parties reside.

149. Changing place of trial.

SEC. 146. Actions for the following causes must be tried in the County Actions to be in which the subject of the action, or some part thereof, is situated, sub-tried where subject matject to the power of the Court to change the place of trial, in the cases tersituated. provided by statute:

 For the recovery of real property, or of an estate or interest therein, or for the determination in any form of such right or interest, and for

injuries to real property;

For the partition of real property;

3. For the foreclosure of a mortgage of real property;

4. For the recovery of personal property distrained for any cause.

SEC. 147. Actions for the following causes must be tried in the County Action to be where the cause, or some part thereof, arose, subject to the like power of tried where of acthe Court to change the place of trial, in the cases provided by statute: tion arose.

1. For the recovery of a penalty or forfeiture imposed by statute, except that, when it is imposed for an offence committed on a lake, river, or other stream of water, situated in two or more Counties, the action may be brought in any County bordering on such lake, river, or stream, and opposite to the place where the offence was committed;

2. Against a public officer, or person specially appointed to execute his duties, for an act done by him in virtue of his office, or against a person who, by his command or in his aid, shall do anything touching the duties

of such officer.

SEC. 148. In all other cases the action shall be tried in the County in Action to be which the parties, or any of them, shall reside at the commencement of parties reside the action; or, if none of the parties shall reside in the State, the same may be tried in any County which the plaintiff shall designate in his complaint, subject, however, to the power of the Court to change the place of trial, in the cases provided by statute.

SEC. 149. If the County designated for that purpose in the complaint be not the proper County, the action may, notwithstanding, be tried therein, unless the defendant, before the time for answering expire, de-

mand, in writing, that the trial be had in the proper County, and the place of trial be thereupon changed by consent of parties, or by order of the Court, as is provided in this Section.

The Court may change the place of trial in the following cases:

1. When the County designated for that purpose in the complaint is not the proper County;

2. When there is reason to believe that an impartial trial cannot be

had therein:

3. When the convenience of witnesses and the ends of justice would

be promoted by the change.

When the place of trial is changed, all other proceedings shall be had in the County to which the place of trial is changed, unless otherwise provided by the consent of the parties, in writing, duly filed, or order of the Court; and the papers shall be filed or transferred accordingly.

TITLE V.

MANNER OF COMMENCING CIVIL ACTIONS.

SEC. 150. Actions, how commenced.

Summons, requisites of.

152. Notice to be inserted in summons.

153. Complaint need not be served with summons.

154. Defendant unreasonably defending.

155. Notice of lis pendens.

156. Service of summons.

157. Return of summons.

158. Publication of summons.

159. Proceedings when part only of defendants served—partners.

When service by publication complete.

161. Proof of service.

162. When jurisdiction of action acquired.

Action, bow commenced.

SEC. 150. Civil actions in the Courts of Record of this State shall be

commenced by service of a summons.

Summons

SEC. 151. The summous shall be subscribed by the plaintiff or his atrequisites of. torney, and directed to the defendant, and shall require him to answer the complaint, and serve a copy of his answer on the person whose name is subscribed to the summons, at a place within the State, to be therein specified, in which there is a post office, within twenty days after the service of the summons, exclusive of the day of service.

Summonsnotice to be inserted in.

SEC. 152. The plaintiff shall also insert in the summons a notice, in substance as follows:

 In an action arising on contract, for the recovery of money only, that he will take judgment for a sum specified therein, if the defendant fail to answer the complaint in twenty days after the service of the sum-

2. In other actions, that if the defendant shall fail to answer the complaint within twenty days after the service of the summons, the plaintiff will apply to the Court for the relief demanded in the complaint.

SEC. 153. A copy of the complaint need not be served with the summons. In such case, the summons must state where the complaint is or will be filed; and if the defendant, within twenty days thereafter, causes notice of appearance to be given, and, in person or by attorney, demands, in writing, a copy of the complaint, specifying a place within the State where it may be served, a copy thereof must, within twenty days thereafter, be served accordingly; and after such service, the defendant has twenty days to answer; but only one copy need be served on the same attorney.

no Notice

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Service

complaint.

SEC. 154. In the case of a defendant against whom no personal claim is made, the plaintiff may deliver to such defendant, with the summons, no personal a notice subscribed by the plaintiff or his attorney, setting forth the general object of the action, a brief description of the property affected by it, if it affects specific real or personal property, and that no personal claim is made against such defendant, in which case no copy of the complaint need be served on such defendant, unless, within the time for answering, he shall, in writing, demand the same. If a defendant on whom such notice is served unreasonably defend the action, he shall pay costs to the plaintiff.

SEC. 155. In an action affecting the title to real property, the plaintiff, at the time of filing the complaint, or at any time afterwards, or whenever a warrant of attachment, under chapter four of title seven, part second, of this Code, shall be issued, or at any time afterwards, the plaintiff, or a defendant, when he sets up an affirmative cause of action in his answer and demands substantive relief, at the time of filing his answer, or at any time afterwards, if the same be intended to affect real estate, may file with the Clerk of each County in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action, and the description of the property in that County affected thereby; and if the action be for the foreclosure of a mortgage, such notice must be filed twenty days before judgment, and must contain the date of the mortgage, the parties thereto, and the time and place of recording the same. From the time of filing only shall the pendency of the action be constructive notice to a purchaser or incumbrancer of the property affected thereby; and every person whose conveyance or incumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or incumbrancer, and shall be bound, by all proceedings taken after the filing of such notice, to the same extent as if he were made a party to the action. For the purposes of this Section, an action shall be deemed to be pending from the time of filing such notice: Provided, however, That such notice shall be of no avail, unless it shall be followed by the first publication of the summons, or an order therefor, or by the personal service thereof on a defendant within sixty days after And the Court in which the said action was commenced may, such filing. in its discretion, at any time after the action shall be settled, discontinued or abated, as is provided in Section number one hundred and fortyfour, on application of any person aggrieved, and on good cause shown, and on such notice as shall be directed or approved by the Court, order the notice authorized by this Section to be cancelled of record by the Clerk of any County in whose office the same may have been filed or recorded; and such cancellation shall be made by an indorsement to that

Notice of lis

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effect on the margin of the record, which shall refer to the order, and for which the Clerk shall be entitled to a fee of twenty-five cents.

Summons by whom ser-

SEC. 156. The summons may be served by the Sheriff of the County where the defendant may be found, or by any other person not a party to The service shall be made, and the summons returned, with proof of the service, to the person whose name is subscribed thereto, with all reasonable diligence. The person subscribing the summons may, at his option, by an endorsement on the summons, fix a time for the service thereof, and the service shall then be made accordingly.

SEC. 157. The summons shall be served by delivering a copy thereof

Service as follows: summons.

1. If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier, treasurer, a director, or managing agent thereof; but such service can be made in respect to a foreign corporation only when it has property within this State, or the cause of action arose therein, or where such service shall be made within this State personally upon the president, cashier, treasurer, or secretary thereof.

2. If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother or guardian; or, if there be none within the State, then to any person having the care and control of such minor, or with whom he shall reside, or in whose service he shall be

employed.

3. If against a person judicially declared to be of unsound mind, or incapable of conducting his own affairs in consequence of habitual drunkenness, and for whom a committee or guardian has been appointed, to such committee or guardian and to the defendant personally.

4. In all other cases, to the defendant personally.

Service publication.

SEC. 158. Where the person on whom the service of the summons is to be made cannot, after due diligence, be found within the State, and that fact appears by affidavit to the satisfaction of the Court or a Judge thereof, or of the Probate Judge of the County where the trial is to be had, and it in like manner appears that a cause of action exists against the defendant in respect to whom the service is to be made, or that he is a proper party to an action relating to real property in this State, such Court or Judge may grant an order that the service be made by the publication of a summons in either of the following cases:

1. Where the defendant is a foreign corporation, has property within

the State, or the cause of action arose therein;

2. Where the defendant, being a resident of this State, has departed therefrom, with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself concealed therein with the like intent;

3. Where he is not a resident of this State, but has property therein.

and the Court has jurisdiction of the subject of the action;

4. Where the subject of the action is real or personal property in this State, and the Defendant has or claims a lien or interest, actual or contingent, therein, or the relief demanded consists, wholly or partly, in excluding the Defendant from any interest or lien therein;

5. Where the action is for divorce, in the cases prescribed by law.

The order must direct the publication to be made in two newspapers. to be designated as most likely to give notice to the person to be served. and for such length of time as may be deemed reasonable, not less than once a week for six weeks. In case of publication, the Court or Judge

must also direct a copy of the summons and complaint to be forthwith deposited in the post office, directed to the person to be served, at his place of residence, unless it appear that such residence is neither known to the party making the application, nor can with reasonable diligence be ascertained by him. When publication is ordered, personal service of a copy of the summons and complaint, out of the State, is equivalent to publication and deposit in the post office.

The Defendant against whom publication is ordered, or his representatives, on application and sufficient cause shown at any time before judgment, must be allowed to defend the action; and, except in an action for divorce, the Defendant against whom publication is ordered, or his representatives, may, in like manner, upon good cause shown, be allowed to defend after judgment, or at any time within one year after notice thereof, and within seven years after its rendition, on such terms as may be just; and if the defence be successful, and the judgment or any part thereof have been collected, or otherwise enforced, such restitution may thereupon be compelled as the Court directs; but the title to property sold under such judgment to a purchaser in good faith shall not be thereby affected. And in all cases where publication is made, the complaint must be first filed, and the summons, as published, must state the time and place of such filing.

In actions for the foreclosure of mortgages on real estate, already instituted, or hereafter to be instituted, if any party or parties having any interest in or lien upon such mortgaged premises are unknown to the Plaintiff, and the residence of such party or parties cannot, with reasonable diligence, be ascertained by him, and such fact shall be made to appear, by affidavit, to the Court, or to a Judge thereof, where the trial is to be had, such Court or Judge may grant an order that the summons be served on such unknown party or parties by publishing the same for six weeks, once in each week successively, in a newspaper printed in the County where the premises are situated, which publication shall be equi-

valent to a personal service on such unknown party or parties.

SEC. 159. Where the action is against two or more Defendants, and the summons is served on one or more of them, but not on all of them, veral debtors —partners.

the Plaintiff may proceed as follows:

1. If the action be against Defendants jointly indebted upon contract, he may proceed against the Defendant served, unless the Court otherwise direct; and if he recover judgment, it may be entered against all the Defendants thus jointly indebted, so far only as that it may be enforced against the joint property of all and the separate property of the Defendants served, and, if they are subject to arrest, against the persons of the Defendants served; or,

2. If the action be against Defendants severally liable, he may proceed against the Defendants served in the same manner as if they were the

only Defendants.

3. If all the Defendants have been served, judgment may be taken against any or either of them severally, where the Plaintiff would be entitled to judgment against such Defendant or Defendants, if the action had been against them or any of them alone.

4. If the name of one or more partners shall, for any cause, have been omitted in any action in which judgment shall have passed against the Defendants named in the summons, and such omission shall not have

Joint and se-

STATUTES AT LARGE

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been pleaded in such action, the Plaintiff, in case the judgment therein shall remain unsatisfied, may by action recover of such partner separately, upon proving his joint liability, notwithstanding he may not have been named in the original action; but the Plaintiff shall have satisfaction of only one judgment rendered for the same cause of action.

When service complete.

SEC. 160. In the cases mentioned in Section one hundred and fiftyeight, the service of the summons shall be deemed complete at the expiration of the time prescribed by the order for publication.

Sec. 161. Proof of the service of the summons, and of the complaint or notice, if any, accompanying the same, must be as follows:

Proof of service.

1. If served by the Sheriff, his certificate thereof; or,

2. If by any other person, his affidavit thereof; or,

3. In case of publication, the affidavit of the printer, or his foreman, or principal clerk, showing the same, and an affidavit of a deposit of a copy of the summons in the post office, as required by law, if the same shall have been deposited; or,

4. The written admission of the Defendant.

In case of service otherwise than by publication, the certificate, affida-

vit or admission must state the time and place of the service.

SEC. 162. From the time of the service of the summons in a civil ac-Jurisdiction tion, or the allowance of a provisional remedy, the Court is deemed to have acquired jurisdiction, and to have control of all the subsequent Appearance. proceedings. A voluntary appearance of a Defendant is equivalent to personal service of the summons upon him.

TITLE VI.

OF THE PLEADINGS IN CIVIL ACTIONS.

CHAPTER I. The complaint.

II. The demurrer.

III. The answer.

IV. The reply.V. General rules of pleading.

VI. Mistakes and amendments.

CHAPTER I.

THE COMPLAINT.

Sec. 163. Forms of pleading.

164. Complaint.

165. Complaint, what to contain.

Sec. 163. All the forms of pleading heretofore existing are abolished; Of forms of and, hereafter, the forms of pleading in civil actions in Courts of Record, pleading. and the rules by which the sufficiency of the pleadings is to be determined, are those prescribed by this Act.

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Complaint.

Complaint-

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SEC. 164. The first pleading on the part of the Plaintiff is the complaint.

SEC. 165. The complaint shall contain:

1. The title of the cause, specifying the name of the Court in which the action is brought, the name of the County in which the Plaintiff desires what to conthe trial to be had, and the names of the parties to the action—Plaintiff tain. and Defendant.

2. A plain and concise statement of the facts constituting a cause of

action, without unnecessary repetition.

3. A demand of the relief to which the Plaintiff supposes himself en-If the recovery of money be demanded, the amount thereof shall be stated.

CHAPTER II.

DEMURRER.

SEC. 166. Defendant to demur or answer.

167. When the defendant may demur.

168. Demurrer, what to specify.

169. How to proceed if complaint be amended.

170. Objection not appearing on complaint.

171. Objection, when waived.

SEC. 166. The only pleading on the part of the defendant is either a Defendant to demurrer or an answer. It must be served within twenty days after the demur or answer. service of the copy of the complaint.

SEC. 167. The defendant may demur to the complaint when it shall When defend-

appear upon the face thereof, either-

ant may demur.

1. That the Court has no jurisdiction of the person of the defendant,

or the subject of the action; or,

2. That the plaintiff has not legal capacity to sue; or,

- 3. That there is another action pending between the same parties, for the same cause; or,
 - 4. That there is a defect of parties, plaintiff or defendant; or,
 - 5. That several causes of action have been improperly united; or,
- 6. That the complaint does not state facts sufficient to constitute a cause of action.

SEC. 168. The demurrer shall distinctly specify the grounds of objection to the complaint. Unless it do so, it may be disregarded. It may rer must specify grounds be taken to the whole complaint or to any of the alleged causes of action of objection. stated therein.

SEC. 169. If the complaint be amended, a copy thereof must be served on the defendant, who must answer it within twenty days, or the plaintiff, ceed if comupon filing with the Clerk, on due proof of the service, and of the de-edfendant's omission, may proceed to obtain judgment, as provided by Section two hundred and sixty-nine; but where an application to the Court for judgment is necessary, eight days' notice thereof must be given to the defendant.

Objection not appearing on complaint.

Objectionwaived.

SEC. 170. When any of the matters enumerated in Section one hundred and sixty-seven do not appear upon the face of the complaint, the objection may be taken by answer.

SEC. 171. If no such objection be taken either by demurrer or answer, the defendant shall be deemed to have waived the same, excepting only when deemed the objection to the jurisdiction of the Court, and the objection that the complaint does not state facts sufficient to constitute a cause of action.

CHAPTER III.

ANSWER.

Sec. 172. Answer, what to contain.

173. Counter claim. Several defences. 174. Demurrer and answer, when allowed.

175. Sham and irrelevant defences to be stricken out.

Answer, what to contain.

SEC. 172. The answer of the defendant must contain:

1. A general or specific denial of each material allegation of the complaint controverted by the defendant, or of any knowledge or information thereof sufficient to form a belief.

2. A statement of any new matter constituting a defence or counter

claim, in ordinary and concise language, without repetition.

Counter claim. Several defences.

Sec. 173. The counter claim mentioned in the last Section must be one existing in favor of a defendant, and against a plaintiff, between whom a several judgment might be had in the action, and arising out of one of the following causes of action:

1. A cause of action arising out of the contract or transaction set forth in the complaint as the foundation of the Plaintiff's claim, or connected

with the subject of the action.

2. In an action arising on contract, any other cause of action arising

also on contract, and existing at the commencement of the action.

The Defendant may set forth by answer as many defences and counter claims as he may have, whether they be such as have been heretofore denominated legal or equitable, or both. They must each be separately stated, and refer to the causes of action which they are intended to answer, in such manner that they may be intelligibly distinguished.

SEC. 174. The Defendant may demur to one or more of several causes Demurrer and answer.

of action stated in the complaint, and answer the residue.

Sham and stricken out. impose.

Sec. 175. Sham and irrelevant answers and defences may be stricken irrelevant de-fences to be out on motion, and upon such terms as the Court may, in their discretion,

CHAPTER IV.

THE REPLY.

Sec. 176. Reply. Demurrer to answer.

177. Motion for judgment upon answer.

178. Demurrer to reply.

SEC. 176. When the answer contains new matter constituting a counter claim, the Plaintiff may, within twenty days, reply to such new matter, denying generally or specifically each allegation controverted by him, or any knowledge or information thereof sufficient to form a belief; and he may allege, in ordinary and concise language, without repetition, any new matter not inconsistent with the complaint, constituting a defence to such new matter in the answer; and the Plaintiff may in all cases demur to an answer containing new matter, where, upon its face, it does not constitute a counter claim or defence; and the Plaintiff may demur to one or more of such defences or counter claims, and reply to the residue of the counter claims.

A. D. 1870. Reply.

And in other cases, where an answer contains new matter constituting a defence by way of avoidance, the Court may, in its discretion, on the Defendant's motion, require a reply to such new matter; and in that case the reply shall be subject to the same rules as a reply to a counter claim.

SEC. 177. If the answer contain a statement of new matter constituting Motion for judgment on a counter claim, and the Plaintiff fail to reply or demur thereto within answer. the time prescribed by law, the defendant may move, on a notice of not less than ten days, for such judgment as he is entitled to upon such statement; and if the case require it, a writ of inquiry of damages may be issued.

SEC. 178. If a reply of the Plaintiff to any defence set up by the an-reply. swer of the Defendant be insufficient, the Defendant may demur thereto, and shall state the grounds thereof.

CHAPTER V.

GENERAL RULES OF PLEADING.

SEC. 179. Pleadings to be subscribed and verified.

180. Pleadings, how verified.

181. How to state an account in pleading.

182. Pleadings to be liberally construed.

183. Irrelevant or redundant matter to be stricken out, and indefinite matter made more definite.

184. Judgment, how to be pleaded.

185. Conditions precedent, how to be pleaded.

186. Private statutes, how to be pleaded.

187. Libel and slander, how stated in complaint.

188. Answer in such cases.

189. Answer in actions to recover property distrained for damage.

190. What causes of action may be joined.

191. Allegation not denied, when to be deemed true.

SEC. 179. Every pleading in a Court of Record must be subscribed by Pleadings, to the party or his attorney; and when any pleading is verified, every subsectional and verified. quent pleading, except a demurrer, must be verified also.

SEC. 180. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to those matters how verified.

Pleadings



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A. D. 1870.

stated on information and belief, and, as to those matters, he believes it to be true; and must be by the affidavit of the party, or, if there be several parties united in interest, and pleading together, by one at least of such parties acquainted with the facts, if such party be within the County where the attorney resides, and capable of making the affidavit. affidavit may also be made by the agent or attorney, if the action or defence be founded upon a written instrument for the payment of money only, and such instrument be in the possession of the agent or attorney, or if all the material allegations of the pleading be within the personal knowledge of the agent or attorney. When the pleading is verified by any other person than the party, he shall set forth in the affidavit his knowledge, or the grounds of his belief on the subject, and the reasons why it is not made by the party. When a corporation is a party, the verification may be made by any officer thereof; and when the State, or any officer thereof in its behalf, is a party, the verification may be made by any person acquainted with the facts. The verification may be omitted when an admission of the truth of the allegation might subject the party to prosecution for felony. And no pleading can be used in a criminal prosecution against the party, as a proof of a fact admitted or alleged in such pleading: Provided, That the verification of any pleading in any Court of Record in this State may be omitted in all cases where the party called upon to verify would be privileged from testifying as a witness to the truth of any matter denied by such pleading.

culars.

SEC. 181. It shall not be necessary for a party to set forth in a plead-Items of ac ing the items of an account therein alleged; but he shall deliver to the adverse party, within ten days after a demand therefor in writing, a copy of the account, which, if the pleading is verified, must be verified by his own oath, or that of his agent or attorney, if within the personal knowledge of such agent or attorney, to the effect that he believes it to be true, or be precluded from giving evidence thereof. The Court, or a Judge thereof, may order a "further account," when the one delivered is defective; and the Court may, in all cases, order a bill of particulars of the claim of either party to be furnished.

Pleadings-

Indefinite or

uncertain.

SEC. 182. In the construction of a pleading for the purpose of deterhow to be con-mining its effect, its allegations shall be liberally construed, with a view of substantial justice between the parties.

Irrelevant or redundant.

SEC. 183. If irrelevant or redundant matter be inserted in a pleading, it may be stricken out, on motion of any person aggrieved thereby. And when the allegations of a pleading are so indefinite or uncertain that the precise nature of the charge or defence is not apparent, the Court may require the pleading to be made definite and certain by amendment.

Judgmentshow implead-

SEC. 184. In pleading a judgment, or other determination of a Court or officer of special jurisdiction, it shall not be necessary to state the facts conferring jurisdiction, but such judgment or determination may be stated to have been duly given or made. If such allegation be controverted, the party pleading shall be bound to establish on the trial the facts conferring jurisdiction.

Conditions precedent — how pleaded.

SEC. 185. In pleading the performance of conditions precedent in a contract, it shall not be necessary to state the facts showing such performance; but it may be stated generally that the party duly performed all the conditions on his part; and if such allegation be controverted, the

party pleading shall be bound to establish, on the trial, the facts showing such performance. In an action or defence founded upon an instrument for the payment of money only, it shall be sufficient for a party to for payment give a copy of the instrument, and to state that there is due to him of money only. thereon from the adverse party a specified sum, which he claims.

SEC. 186. In pleading a private statute, or a right derived therefrom, it shall be sufficient to refer to such statute by its title and the day of its utos, how be pleaded.

passage, and the Court shall thereupon take judicial notice thereof.

SEC. 187. In an action for libel or slander, it shall not be necessary to state, in the complaint, any extrinsic facts, for the purpose of showing stated in conthe application to the plaintiff of the defamatory matter out of which the plaint. cause of action arose; but it shall be sufficient to state generally that the same was published or spoken concerning the plaintiff; and if such allegation be controverted, the plaintiff shall be bound to establish, on trial, that it was so published or spoken.

SEC. 188. In the actions mentioned in the last Section, the defendant may, in his answer, allege both the truth of the matter charged as de-such cases. famatory and any mitigating circumstances, to reduce the amount of damages; and, whether he prove the justification or not, he may give, in

evidence, the mitigating circumstances.

SEC. 189. In an action to recover the possession of property distrained doing damage, an answer that the defendant, or person by whose comperty that is mand he acted, was lawfully possessed of the real property upon which distrained for the distress was made, and that the property distrained was at the time damage, and swerneed not doing damage thereon, shall be good, without setting forth the title to set forth title. such real property.

SEC. 190. The plaintiff may unite, in the same complaint, several What causes of action may causes of action, whether they be such as have been heretofore denominable joined in the same com-

ted legal or equitable, or both, where they all arise out of-

1. The same transaction, or transactions connected with the same subject of action; or,

2. Contract, express or implied; or,

3. Injuries with or without force, to person and property, or either; or,

4. Injuries to character; or,

5. Claims to recover real property, with or without damages for the withholding thereof, and the rents and profits of the same; or,

Claims to recover personal property, with or without damages for the

withholding thereof; or,

7. Claims against a Trustee, by virtue of a contract, or by operation of law.

But the causes of action, so united, must all belong to one of these classes, and, except in actions for the foreclosure of mortgages, must affect all the parties to the action, and not require different places of trial, and must be separately stated. In actions to foreclose mortgages, the Court shall have power to adjudge and direct the payment, by the mortgagor, of any residue of the mortgage debt that may remain unsatisfied after a sale of the mortgaged premises, in cases in which the mortgagor shall be personally liable for the debt secured by such mortgage; and if the mortgage debt be secured by the covenant or obligation of any person other than the mortgagor, the plaintiff may make such person a party to the action, and the Court may adjudge payment of the residue of such debt remain-59

Answer in

In action to

ing unsatisfied after a sale of the mortgaged premises against such other person, and may enforce such judgment as in other cases.

Allegation

Sec. 191. Every material allegation of the complaint, not controverted by the answer, as prescribed in Section one hundred and seventy-two, and not denied by the answer, as prescribed in Section one hundred and seventy-two, and when to be every material allegation of new matter in the answer, constituting a deemed true. counter claim, not controverted by the reply, as prescribed in Section one hundred and seventy-six, shall, for purposes of the action, be taken But the allegation of new matter in the answer, not relating to a counter claim, or of new matter in a reply, is to be deemed controverted by the adverse party as upon a direct denial or avoidance, as the case may require.

CHAPTER VI.

MISTAKES IN PLEADING, AND AMENDMENTS.

SEC. 192. Material variances, how provided for.

193. Immaterial variances, how provided for.

194. What not to be deemed a variance.

195. Amendments of course and after demurrer.

196. Amendments by the Court.

197. Court may give relief in case of mistake.

198. Suing a party by a fictitious name.

199. No error or defect to be regarded unless it affect substantial rights.

200. Supplemental complaint, answer, and reply.

Material variance.

SEC. 192. No variance between the allegation in a pleading and the proof shall be deemed material, unless it have actually misled the adverse party, to his prejudice, in maintaining his action or defence, upon the merits. Whenever it shall be alleged that a party has been so misled, that fact shall be proved to the satisfaction of the Court, and in what respect he has been misled; and thereupon the Court may order the pleading to be amended, upon such terms as shall be just.

Sec. 193. Where the variance is not material, as provided in the last Immaterial Section, the Court may direct the fact to be found according to the evi-

dence, or may order an immediate amendment without costs.

variance.

proof.

after al

murrer.

SEC. 194. Where, however, the allegation of the cause of action or Failure of defence to which the proof is directed is not proved, not in some particular or particulars only, but in its entire scope and meaning, it shall not be deemed a case of variance, within the last two Sections, but a failure of proof.

SEC. 195. Any pleading may be once amended by the party of course, Amendments without costs, and without prejudice to the proceedings already had, at allow- any time within twenty days after it is served, or at any time before the period for answering it expires; or it can be so amended at any time within twenty days after the service of the answer or demurrer to such pleading, unless it be made to appear to the Court that it was done for

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the purposes of delay, and the plaintiff or defendant will thereby lose the benefit of a circuit or term for which the cause is or may be noticed; and if it appear to the Court that such amendment was made for such purpose, the same may be stricken out, and such terms imposed as to the Court may seem just. In such case a copy of the amended pleading must be served on the adverse party. After the decision of a demurrer, either at a general or special term, the Court may, in its discretion, if it appear that the demurrer was interposed in good faith, allow the party to plead over upon such terms as may be just. If the demurrer be allowed for the cause mentioned in the fifth sub-division of Section one hundred and sixty-seven, the Court may, in its discretion, and upon such terms as may be just, order the action to be divided into as many actions as may be necessary to the proper determination of the causes of action therein mentioned.

SEC. 196. The Court may, before or after judgment, in furtherance of justice, and on such terms as may be proper, amend any pleading, process or proceeding, by adding or striking out the name of any party; or by correcting a mistake in the name of a party, or a mistake in any other respect; or by inserting other allegations material to the case; or, when the amendment does not change substantially the claim or defence, by

conforming the pleading or proceeding to the facts proved.

SEC. 197. The Court may likewise, in its discretion, and upon such terms as may be just, allow an answer or reply to be made, or other Act ses of mistako to be done, after the time limited by this Act, or, by an order, enlarge such time; and may also, in its discretion, and upon such terms as may be just, at any time within one year after notice thereof, relieve a party from a judgment, order, or other proceeding, taken against him through his mistake, inadvertence, surprise, or excusable neglect, and may supply an omission in any proceeding; and whenever any proceeding taken by a party fails to conform in any respect to the provisions of this Code, the Court may, in like manner, and upon like terms, permit an amendment of such proceeding, so as to make it conformable thereto.

SEC. 198. When the Plaintiff shall be ignorant of the name of a Defendant, such Defendant may be designated in any pleading or proceeding by any name; and when his true name shall be discovered, the

pleading or proceeding may be amended accordingly.

SEC. 199. The Court shall, in every stage of action, disregard any error or defect in the pleadings or proceedings, which shall not affect the regarded. substantial rights of the adverse party; and no judgment shall be re-

versed or affected by reason of such error or defect.

SEC. 200. The Plaintiff and Defendant respectively may be allowed, on motion, to make a supplemental complaint, answer or reply, alleging facts material to the case occurring after the former complaint, answer or reply, or of which the party was ignorant when his former pleading was made, and either party may, by leave of the Court, in any pending or future action, set up by a supplemental pleading the judgment or decree of any Court of competent jurisdiction rendered since the commencement of such action, determining the matters in controversy in said action, or any part thereof, and if said judgment be set up by the Plaintiff, the same shall be without prejudice to any provisional remedy theretofore issued or other proceedings had in said action on his behalf.

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Amendment

Relief in ca-

Error of defects to be dis-

Supplement-al pleading.

STATUTES AT LARGE

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TITLE VII.

OF THE PROVISIONAL REMEDIES IN CIVIL ACTIONS.

CHAPTER I. Arrest and bail.

II. Claim and delivery of personal property.

III. Injunction.

IV. Attachment.

V. Provisional remedies.

CHAPTER I.

ARREST AND BAIL.

- SEC. 201. No person to be arrested in a civil action, except as prescribed.
 - 202. Arrest in civil actions, in what cases.
 - 203. Order for arrrest, by whom to be made.
 - 204. Affidavit to obtain order for arrest. To what actions this Chapter applies.
 - 205. Security by Plaintiff before obtaining order for arrest.
 - 206. Order for arrest, when it may be made, and its form.
 - 207. Original affidavit and order to be delivered to Sheriff, and copy to be delivered to Defendant.
 - 208. Arrest, how made.
 - Defendant to be discharged on giving bail or making a deposit.
 - 210. Bail, how given.
 - 211. Surrender of Defendant.
 - 212. The like.
 - 213. Bail, how proceeded against.
 - 214. Bail, how exonerated.
 - 215. Delivery of undertaking of bail to Plaintiff, and its acceptance or rejection by him.
 - 216. Notice of justification. New bail.
 - 217. Qualification of bail.
 - 218. Justification of bail.
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 - 220. Deposit in lieu of bail.
 - 221. Payment of deposit into Court.
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 - 223. Deposit, how disposed of after judgment in the action.
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 - 227. Vacating order of arrest or reducing bail.
 - 228. Affidavits on motion to vacate order of arrest or reduce bail.

No person shall be arrested in a civil action, except as preto be arrested scribed by this Act; but the same shall not apply to proceedings for scribed.

SEC. 201. No person shall be arrested in a civil action, except as prescribed by this Act; but the same shall not apply to proceedings for contempt.



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SEC. 202. The defendant may be arrested, as hereinafter prescribed, in the following cases:

1. In an action for the recovery of damages, on a cause of action not arising out of contract, where the defendant is not resident of the State, or is about to remove therefrom, or where the action is for an injury to person or character, or for injuring or for wrongfully taking, detaining or converting property.

2. In an action for a fine or penalty, or for money received, or property embezzled or fraudulently misapplied, by a public officer, or by an attorney, solicitor or counsellor, or by an officer or agent of a corporation or banking association, in the course of his employment as such, or by any factor, agent, broker or other person in a fiduciary capacity, or for any misconduct or neglect in office, or in a professional employment.

3. In an action to recover the possession of personal property unjustly detained, where the property, or any part thereof, has been concealed, removed or disposed of, so that it cannot be found or taken by the Sheriff or Constable, and with the intent that it should not be so found or taken,

or with the intent to deprive the plaintiff of the benefit thereof.

4. When the defendant has been guilty of a fraud in contracting the debt, or incurring the obligation for which the action is brought, or in concealing or disposing of the property for the taking, detention or conversion of which the action is brought, or when the action is brought to recover damages for fraud or deceit.

5. When the defendant has removed or disposed of his property, or is

about to do so, with intent to defraud his creditors.

But no female shall be arrested in any action, except for a wilful injury

to person, character or property.

SEC. 203. An order for the arrest of the defendant must be obtained from a Judge, Trial Justice, or Clerk of the Court, in which, or before made. whom, the action is brought.

SEC. 204. The order may be made where it shall appear to the proper obtain order. officer by the affidavit of the plaintiff or of any other person, that a sufficient cause of action exists, and that the case from the facts stated is one ter applies.

of those mentioned in Section two hundred and two.

SEC. 205. Before making the order, the Judge or other officer shall require a written undertaking on the part of the plaintiff, with or without fore order of sureties, to the effect that if the defendant recover judgment, the plaintiff arrest. will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the arrest, not exceeding the sum specified in the undertaking, which shall be at least one hundred dollars. If the undertaking be executed by the plaintiff, without sureties, he shall annex thereto an affidavit that he is a resident and householder or freeholder within the State and worth double the sum specified in the undertaking over all his debts and liabilities.

SEC. 206. The order may be made to accompany the summons, or at order, when any time afterwards before judgment. It shall require the Sheriff or form. Time Constable of the County where the defendant may be found forthwith to to answer or to move to vaarrest him and hold him to bail in a specified sum, and to return the cate. order, at a place and time therein mentioned, to the plaintiff or attorney by whom it shall he subscribed or indorsed.

But said order of arrest shall be of no avail, and shall be vacated or set aside on motion, unless the same is served upon the defendant, as pro-

In what ca-

Order for ar-

Security by

Affidavitand order to be delivered to the Sheriffor Constable, and a copy to the defendant.

made.

Defendant to be discharged on bail or deposit.

be given.

vided by law, before the docketing of any judgment in the action; and the defendant shall have twenty days, after the service of the order of arrest, in which to answer the complaint.

SEC. 207. The affidavit and order of arrest shall be delivered to the Sheriff or Constable, who, upon arresting the defendant, shall deliver to him a copy thereof.

SEC. 208. The Sheriff or Constable shall execute the order by arresting the defendant and keeping him in custody until discharged by law, and Arrest, how may call the power of the County to his aid in the execution of the arrest, as in case of process.

SEC. 209. The defendant, at any time before execution, shall be discharged from the arrest, either upon giving bail or upon depositing the amount mentioned in the order of arrest as provided in this chapter.

SEC. 210. The defendant may give bail by causing a written under-Bail, how to taking to be executed by two or more sufficient bail, stating their places of residence and occupations, to the effect that the defendant shall at all times render himself amenable to the process of the Court, during the pendency of the action, and to such as may be issued to enforce the judgment therein; or, if he be arrested for the cause mentioned in third sub-division of Section two hundred and two, and undertaking to the same effect as that provided by Section two hundred and thirty-four.

Surrender of defendant.

SEC. 211. At any time before a failure to comply with the undertaking, the bail may surrender the defendant in their exoneration, or he may surrender himself to the Sheriff of the County where he was arrested, in the following manner:

1. A certified copy of the undertaking of the bail shall be delivered to the Sheriff or Constable, who shall detain the defendant in his custody thereon, as upon an order of arrest, and shall, by a certificate in writing,

acknowledge the surrender;

2. Upon the production of a copy of the undertaking and Sheriff's or Constable's certificate, a Judge or Clerk of the Court may, upon a notice to the plaintiff of eight days, with a copy of the certificate, order that the bail be exonerated; and on filing the order and the papers used on said application, they shall be exonerated accordingly. But this Section shall not apply to an arrest for cause mentioned in sub-division three of Section two hundred and two, so as to discharge the bail from an undertaking given to the effect provided by Section two hundred and thirtyfour.

Surrender of defendant.

Bail, how to be proceeded against.

onerated.

SEC. 212. For the purpose of surrendering the defendant, the bail, at any time or place, before they are finally charged, may themselves arrest him, or, by a written authority, indorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

SEC. 213. In case of failure to comply with the undertaking, the bail may be proceeded against, by action only.

SEC. 214. The bail may be exonerated, either by the death of the de-Bail, howex-fendant, or his imprisonment in a State prison, or by his legal discharge from the obligation to render himself amenable to the process, or by his surrender to the Sheriff or Constable of the County where he was arrested, in execution thereof, within twenty days after the commencement of the action against the bail, or within such further time as may be granted by the Court.

Sec. 215. Within the time limited for that purpose, the Sheriff or Con-

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stable shall deliver the order of arrest to the plaintiff, or attorney by whom it is subscribed, with his return indorsed, and a certified copy of the undertaking of the bail. The plaintiff, within ten days thereafter, undertaking may serve upon the Sheriff or Constable a notice that he does not accept to plaintiff, the bail, or he shall be deemed to have accepted it, and the Sheriff or ceptance or Constable shall be exonerated from liability. Constable shall be exonerated from liability.

Delivery of him.

SEC. 216. On the receipt of such notice, the Sheriff or Constable, or defendant, may, within ten days thereafter, give to the plaintiff, or attorney by whom the order of arrest is subscribed, notice of the justification of the same or other bail (specifying the places of residence and occupation of the latter) before a Judge or Clerk of the Court, at a specified time and place; the time to be not less than five nor more than ten days thereafter. In case other bail be given, there shall be a new undertaking, in the form prescribed in Section two hundred and ten.

Notice of jus-

SEC. 217. The qualification of bail must be as follows:

New bail.

1. Each of them must be a resident, and householder or freeholder. within the State.

Qualification

2. They must each be worth the amount specified in the order of arrest, exclusive of property exempt from execution; but the Judge or Clerk of the Court, on justification, may allow more than two bail to justify severally in amounts less than that expressed in the order, if the whole justification be equivalent to that of two sufficient bail.

Justification

SEC. 218. For the purpose of justification, each of the bail shall attend before the Judge or Clerk of the Court at the time and place mentioned in the notice, and may be examined on oath, on the part of the plaintiff, touching his sufficiency, in such manner as the Judge, or Clerk of the Court, in his discretion, may think proper. The examination shall be reduced to writing, and subscribed by the bail, if required by the plaintiff.

Allowanceof

SEC. 219. If the Judge, or Clerk of the Court, find the bail sufficient, he shall annex the examination to the undertaking, indorse his allowance thereon, and cause them to be filed in the office of the Clerk; and the Sheriff shall thereupon be exonerated from liability.

Deposit with the Sheriff.

SEC. 220. The defendant may, at the time of his arrest, instead of giving bail, deposit with the Sheriff or Constable the amount mentioned in The Sheriff shall thereupon give the defendant a certificate of the order. the deposit and the defendant shall be discharged out of custody.

posit, pay the same into Court, and shall take from the officer receiving deposit into the same two certificates of such payment, the one of which he shall it. liver to the plaintiff, and the other to the defendant. For any default in making such payment the same proceedings may be had on the official bond of the Sheriff or Constable, to collect the sum deposited, as in other cases of delinquency.

Sec. 222. If money be deposited, as provided in the last two Sections, Substituting ball for deposited bail may be given and justified upon notice, as prescribed in Section two sit. hundred and sixteen, any time before judgment; and thereupon the Judge before whom the justification is had shall direct, in the order of allowance, that the money deposited be refunded by the Sheriff or Constable to the defendant, and it shall be refunded accordingly.

SEC. 223. Where money shall have been so deposited, if it remain on dedisposed of posit at the time of an order or judgment for the payment of money to the

A. D. 1870. plaintiff, the Clerk shall, under direction of the Court, apply the same in satisfaction thereof, and after satisfying the judgment, shall refund the surplus, if any, to the defendant. If the judgment be in favor of the defendant, the Clerk shall refund to him the whole sum deposited and re-

maining unapplied. SEC. 224. If, after being arrested, the defendant escape or be rescued, The Sheriff or bail be not given or justified, or a deposit be not made instead thereof, or Constable, when liable as the Sheriff or Constable shall himself be liable as bail. But he may discharge himself from such liability by the giving and justification of bail, as provided in Sections two hundred and sixteen, two hundred and seventeen, two hundred and eighteen, and two hundred and nineteen, at any time before process against the person of the defendant to enforce an order or judgment in the action.

SEC. 225. If a judgment be recovered against the Sheriff or Constable, Proceedings upon his liability as bail, and an execution thereon be returned unsatis-on judgment fied, in whole or in part, the same proceedings may be had on the official bond of the Sheriff or Constable to collect the deficiency, as in other cases of delinquency.

SEC. 226. The bail taken upon the arrest shall, unless they justify, or Ball liable to other bail be given or justified, be liable to the Sheriff or Constable by action for damages which he may sustain by reason of such omission.

Vacating order of arrest or reducing

motion.

SEC. 227. A defendant arrested may, at any time before judgment, apply, on motion, to vacate the order of arrest, or to reduce the amount of bail.

SEC. 228. If the motion be made upon affidavits on the part of the de-Affidavits on fendant, but not otherwise, the plaintiff may oppose the same by affidavits, or other proofs, in addition to those on which the order of arrest was made.

CHAPTER II.

CLAIM AND DELIVERY OF PERSONAL PROPERTY.

SEC. 229. Claim and delivery of personal property.

230. Affidavit and its requisites.

231. Requisition to Sheriff to take and deliver the property.

232. Security by plaintiff. 233. Exception to sureties.

234. Defendant, when entitled to re-delivery.

235. Justification of defendant's sureties.

236. Qualification and justification of sureties.

237. Property, how taken when concealed in building or inclosure.

238. Property, how kept.

239. Claim of property by third person.

240. Notice and affidavit, when and where to be filed.

Delivery of SEC. 229. The plaintiff, in an action to recover the possession of perpersonal property, may, at the time of issuing the summons, or at any time

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before answer, claim the immediate delivery of such property, as provided in this chapter.

SEC. 230. Where a delivery is claimed, an affidavit must be made by Affidavit—requisites

the plaintiff, or by some one in his behalf, showing:

1. That the plaintiff is the owner of the property claimed, (particularly describing it,) or is lawfully entitled to the possession thereof, by virtue of a special property therein, the facts in respect to which shall be set

That the property is wrongfully detained by the defendant;

3. The alleged cause of the detention thereof, according to his best

knowledge, information, and belief;

4. That the same has not been taken for a tax, assessment, or fine, pursuant to a statute; or seized under an execution or attachment against the property of the plaintiff; or, if so seized, that it is, by statute, exempt from such seizure; and

The actual value of the property.

SEC. 231. The plaintiff may, thereupon, by an indorsement in writing Requisition upon the affidavit, require the Sheriff of the County where the property take and deliclaimed may be, to take the same from the defendant and deliver it to ver the property.

the plaintiff.

SEC. 232. Upon the receipt of the affidavit and notice, with a written undertaking executed by one or more sufficient sureties, approved by the Sheriff, to the effect that they are bound in double the value of the property, as stated in the affidavit for the prosecution of the action, for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against the plaintiff, the Sheriff shall forthwith take the property described in the affidavit, if it be in the possession of the defendant or his agent, and retain it in his custody. He shall also, without delay, serve on the defendant a copy of the affidavit, notice, and undertaking, by delivering the same to him personally, if he can be found, or to his agent, from whose possession the property is taken; or, if neither can be found, by leaving them at the usual place of abode of either, with some person of suitable age and discretion.

SEC. 233. The defendant may, within three days after the service of a copy of the affidavit and undertaking, give notice to the Sheriff that he excepts to the sufficiency of the sureties. If he fail to do so, he shall be deemed to have waived all objection to them. When the defendant excepts, the sureties shall justify on notice, in like manner as upon bail on arrest. And the Sheriff shall be responsible for the sufficiency of the sureties, until the objection to them is either waived as above provided, or until they shall justify, or new sureties shall be substituted and justify. If the defendant except to the sureties, he cannot reclaim the property,

as provided in the next Section.

tiff, the defendant may, if he do not except to the sureties of the plaintiff, to re-delivery require the return thereof upon giving to the Shariff. require the return thereof, upon giving to the Sheriff a written undertaking, executed by two or more sufficient sureties, to the effect that they are bound in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against the defendant. If a return of the property

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be not so required, within three days after the taking and service of notice to the defendant, it shall be delivered to the plaintiffs, except as provided in Section two hundred and thirty-nine.

of defendant's sureties.

SEC. 235. The defendant's sureties, upon a notice to the plaintiff of not less Justification than two nor more than six days, shall justify before a Judge, Clerk of the Court, or Trial Justice, in the same manner as upon bail on arrest. Upon such justification, the Sheriff shall deliver the property to the defendant. The Sheriff shall be responsible for the defendant's sureties until they justify, or until justification is completed or expressly waived, and may retain the property until that time; but if they, or others in their place, fail to justify at the time and place appointed, he shall deliver the property to the plaintiff.

Qualifications ties.

Sec. 236. The qualifications of sureties and their justification shall be and justification of sure as are prescribed by Sections two hundred and seventeen and two hundred are seventeen ar dred and eighteen in respect to bail upon an order of arrest.

closure.

SEC. 237. If the property, or any part thereof, be concealed in a build-Property ing or inclosure, the Sheriff shall publicly demand its delivery. If it be ken when con- not delivered, he shall cause the building or inclosure to be broken open, building or in- a and take the property into his possession; and, if necessary, he may call to his aid the power of his County.

Propertyhow kept.

Sec. 238. When the Sheriff shall have taken property, as in this chapter provided, he shall keep it in a secure place, and deliver it to the party entitled thereto, upon receiving his lawful fees for taking, and his necessary expenses for keeping, the same.

perty by third person.

SEC. 239. If the property taken be claimed by any other person than Claim of pro- the defendant or his agent, and such person shall make affidavit of his title thereto, and right to the possession thereof, stating the grounds of such right and title, and serve the same upon the Sheriff, the Sheriff shall not be bound to keep the property, or deliver it to the plaintiff, unless the plaintiff, on demand of him or his agent, shall indemnify the Sheriff against such claim, by an undertaking, executed by two sufficient sureties, accompanied by their affidavits, that they are each worth double the value of the property, as specified in the affidavit of the plaintiff, and freeholders and householders of the County. And no claim to such property, by any other person than the defendant or his agent, shall be valid against the Sheriff, unless made as aforesaid; and, notwithstanding such claim, when so made, he may retain the property a reasonable time to demand such indemnity.

Notice and affldavit, when and where to be filed.

Sec. 240. The Sheriff shall file the notice and affidavit, with his proceedings thereon, with the Clerk of the Court in which the action is pending, within twenty days after taking the property mentioned therein.

CHAPTER III.

INJUNCTION.

SEC. 241. Writ of injunction abolished, and order substituted.

242. Temporary injunction, in what cases granted.

243. At what time it may be granted. Copy affidavit to be served.

Sec. 244. Injunction after answer.

Damages, how ascertained. 245. Security upon injunction.

246. Order to show cause why injunction should not be granted.

247. Security upon injunction to suspend business of corporation.

248. Motion to vacate or modify injunction.

249. Affidavits on motion.

SEC. 241. An order of injunction may be made by the Circuit Court in which the action is brought, or by a Judge thereof, and in the absence by order. from the Circuit, or inability, from any cause, of a Judge thereof, by a

Judge of any other Circuit, or a Justice of the Supreme Court.

Sec. 242. [1] Where it shall appear by the complaint that the plaintiff in what cases. is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of some act, the commission or continuance of which, during the litigation, would produce injury to the plaintiff; or [2] when, during the litigation, it shall appear that the defendant is doing, or threatens, or is about to do, or procuring or suffering some act to be done in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual, a temporary injunction may be granted to restrain [3] And where, during the pendency of an action, it shall appear by affidavit that the defendant threatens, or is about to remove or dispose of his property, with intent to defraud his creditors, a temporary

SEC. 243. The injunction may be granted at the time of commencing at what time the action, or at any time afterwards, before judgment, upon its appearing granted. satisfactorily to the Court or Judge, by the affidavit of the plaintiff, or of copy affidancy other person, that sufficient grounds exist therefor. A copy of the ed.

injunction may be granted to restrain such removal or disposition.

affidavit must be served with the injunction.

SEC. 244. An injunction shall not be allowed after the defendant shall have answered, unless upon notice or upon an order to show cause; but in such case the defendant may be restrained until the decision of the

Court or Judge granting or refusing the injunction.

Sec. 245. When no provision is made by statute as to security upon an injunction, the Court or Judge shall require a written undertaking on the part of the plaintiff, with or without sureties, to the effect that the plaintiff will pay to the party enjoined such damages, not exceeding an amount to be specified, as he may sustain by reason of the injunction, if the Court shall finally decide that the plaintiff was not entitled thereto. The damages may be ascertained by a reference, or otherwise, as the Court shall direct.

SEC. 246. If the Court or Judge deem it proper that the defendant, or Order to show any of several defendants, should be heard before granting the injunction, an order may be made requiring to be shown, at a specified time and place, why the injunction should not be granted; and the defendant may, in the meantime, be restrained.

SEC. 247. An injunction to suspend the general and ordinary business of a corporation shall not be granted except by the Court or a Judge to suspend but the reof. Nor shall it be granted without due notice of the application siness of corporation. therefor, to the proper officers of the corporation, except where the State is a party to the proceeding, and except in proceedings to enforce the liability of stockholders in corporations and associations for banking

Injunction

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Injunction,

Security upon injunction.

Damages.

Restraint in

Security upporation.

purposes, after the first day of January, one thousand eight hundred and seventy, as such proceedings are or shall be provided by law, unless the plaintiff shall give a written undertaking, executed by two sufficient sureties, to be approved by the Court or Judge, to the effect that the plaintiff will pay all damages, not exceeding the sum to be mentioned in the undertaking, which such corporation may sustain by reason of the injunction, if the Court shall finally decide that the plaintiff was not entitled thereto. The damages may be ascertained by a reference, or otherwise, as the Court shall direct.

SEC. 248. If the injunction be granted by the Court or a Judge there-Motion to vacate or modi. of, without notice, the defendant, at any time before the trial, may apply, by injunction upon notice to the Court or a Judge thereof, in which the action is brought, to vacate or modify the same. The application may be made upon the complaints and the affidavits on which the injunction was granted, or upon affidavits on the part of the defendant, with or without the answer.

motion.

SEC. 249. If the application be made upon affidavits on the part of the Affidavits on defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other proofs, in addition to those on which the injunction was granted.

CHAPTER IV.

ATTACHMENT.

Sec. 250. Property of foreign corporations, and of non-resident or absconding or concealed defendants, may be attached.

251. Attachment, by whom granted.

252. In what cases attachment may be issued. Affidavits to be

253. Security on obtaining attachment.

254. Attachment, to whom directed, and what to require.

255. Property to be attached.

256. Sheriff's duties in case.

- 257. Proceedings in case of perishable property or vessels.
- 258. Interest in corporations or associations liable to attach-
- 259. Attachment, how executed on property incapable of manual delivery.

260. Certificate of defendant's interest to be furnished.

261. Judgment, how satisfied.

- 262. When action to recover notes, &c., of defendant, may be prosecuted by the plaintiff in the action in which the attachment issued.
- 263. Bond to Sheriff on attachment, how disposed of on judgment for defendant.
- 264. Discharge of attachment, and return of property or its proceeds to defendant, on his appearance in the action.

265. Undertaking on the part of the defendant.

266. When Sheriff to return attachment with his proceedings thereon.

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SEC. 250. In an action arising on contract for the recovery of money only, or in an action for the wrongful conversion of personal property, against a corporation created by or under the laws of any other State, Property of government or country, or against a defendant who is not a resident of rations and of this State, or against a defendant who has absconded or concealed him-non-resident self, or whenever any person or corporation is about to remove any of his or of concealed or its property from this State, or has assigned, disposed of, or secreted, to be attachor is about to assign disposed of or respectively. or is about to assign, dispose of, or secrete any of his or its property, with ed. intent to defraud creditors, as hereinafter mentioned, the plaintiff, at the time of issuing the summons, or any time afterwards, may have the property of such defendant or corporation attached, in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as the plaintiff may recover; and for the purposes of this Section an action shall be deemed commenced when the summons is issued: Provided, however, That personal service of such summons shall be made, or publication thereof commenced within thirty days.

SEC. 251. A warrant of attachment must be obtained from a Judge warrant, by or Clerk of the Court, or Trial Justice, in which or before whom the accel. SEC. 251. A warrant of attachment must be obtained from a Judge

tion is brought, or from a Circuit Judge.

SEC. 252. The warrant may be issued whenever it shall appear by affidavit that a cause of action exists against such defendant, specifying the ses a warrant amount of the claim and the grounds thereof, and that the defendant is —amounts to either a foreign corporation, or not a resident of this State, or has departed therefrom with intent to defrand his creditors or to avoid the service of a summons, or keep himself concealed therein with the like intent, or that such corporation or person has removed or is about to remove any of his or its property from this State, with intent to defraud his or its creditors, or has assigned, disposed of, or secreted, or is about to assign, dispose of, or secrete any of his or its property, with the like intent, whether such defendant be a resident of this State or not.

It shall be the duty of the plaintiff procuring such warrant, within ten days after the issuing thereof, to cause the affiidavits on which the same was granted to be filed in the office of the Clerk of the County, or with the Trial Justice, in which, or before whom, the action is to be tried.

SEC. 253. Before issuing the warrant, the Judge, Clerk or Trial Justice shall require a written undertaking, on the part of the plaintiff, with on obtaining warrant. sufficient surety, to the effect that if the defendant recover judgment, or the attachment be set aside by order of the Court, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, which shall be at least two hundred and fifty dollars, except in case of a warrant issued by a Trial Justice, when it shall be at least twenty-five dollars.

SEC. 254. The warrant shall be directed to any Sheriff or Constable of any County in which property of such defendant may be, and shall re- whom directquire him to attach and safely keep all the property of such defendant to require. within his County, or so much thereof as may be sufficient to satisfy the plaintiff's demand, together with costs and expenses, the amount of which must be stated in conformity with the complaint, together with costs and expenses. Several warrants may be issued at the same time to the Sheriffs or Constables of different Counties.

SEC. 255. The Sheriff or Constable to whom such warrant is directed

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Property to be attached. Warrant

and delivered shall immediately attach all the real estate of such debtor, and all his personal estate, including money and bank notes, except such real and personal estate as is exempt from attachment, levy or sale by the Warrant of Constitution; and shall take into his custody all books of account, vouchattachment how levied on ers and papers relating to the property, debts, credits and effects of such real estate. debtor, together with all evidences of his title to real estate, which he shall safely keep, to be disposed of as hereinafter directed.

When real estate is attached, a true and attested copy of such attachment, together with a description of the real estate attached, shall be, by the officer serving the same, delivered to the party whose real estate is attached, or left at his last and usual place of abode; and the officer making such service shall also leave a true and attested copy of such attachment, together with a description of the real estate so attached, in the office where, by law, a deed of such real estate is required to be recorded; and if the party whose estate is attached does not reside in this State, then such copy shall be delivered to his tenant, agent or attorney, if any be known; and if no such agent, tenant or attorney be known, then a copy of such warrant of attachment, with the officer's return thereon, lodged in the office where, by law, a deed of such real estate ought to be recorded, shall be deemed sufficient service. It shall be the duty of the Clerk or Register of the office wherein said warrant of attachment is required to be lodged to receive the same and enter in a book kept for that purpose the names of the parties, the date of the warrant of attachment, the sum demanded, and the officer's return thereon. Said attachment shall be a lien, subject to all prior liens, and bind the real estate attached from the date of lodgment: Provided, That all attachments lodged upon the same day shall take rank together.

of Sheriffs or CHSO.

Sec. 256. He shall, immediately on making such seizure, with the as-Of the duties sistance of two disinterested freeholders, make a just and true inventory of Constables in all the property so seized, and of the books, vouchers and papers taken into custody, stating therein the estimated value of the several articles of personal property, and enumerating such of them as are perishable, which inventory, after being signed by the Sheriff and appraisers, shall, within ten days after such seizure, be returned to the officer who issued the warrant; and the Sheriff or Constable shall, under the direction of such officer, collect, receive and take into his possession all debts, credits and effects of such debtor, and commence such suits, and take such legal proceedings, either in his own name or in the name of such debtor, as may be necessary for that purpose, prosecute and discontinue the same at such times and on such terms as the Court may direct. The property so seized, or the proceeds of such as shall have been sold, and debts collected, shall be kept to answer any judgment which may be obtained in such action.

Interest in Corporations,

SEC. 257. If any property so seized shall be perishable, or if any part Proceedings of it be claimed by any other person than such defendant, or if any part islable prop of it consist of a vessel, or of any share or interest therein, the same proceedings shall be had in all respects as are provided by law upon attachments against absent debtors.

SEC. 258. The rights or shares which such defendant may have in the stock of any association or corporation, together, with the interest and or in associa-tions liable to profits thereon, and all other property in this State of such defendant, except that exempt from attachment by the Constitution, shall be liable to be attached and levied upon, and sold to satisfy the judgment and execu-

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SEC. 259. The execution of the attachment upon any such rights, shares, or any debts or other property incapable of manual delivery to the on prope Sheriff or Constable shall be made by leaving a certified copy of the war-incapable rant of attachment with the President or other head of the association or very. corporation, or the Secretary, Cashier, or managing agent thereof, or with the debtor or individual holding such property, with a notice showing the property levied on.

not executed manual deli-

SEC. 260. Whenever the Sheriff or Constable shall, with a warrant of Certificate of defendant's attachment, or execution against the defendant, apply to such officer, interest to be debtor, or individual, for the purpose of attaching, or levying upon such furnished. property, such officer, debtor, or individual shall furnish him with a certificate under his hand, designating the number of rights or shares of the defendant in the stock of such association or corporation, with any dividend or incumbrance thereon, or the amount and description of the property held by such association, corporation, or individual, for the benefit of or debt owing to the defendant. If such officer, debtor, or individual refuse to do so, he may be required by the Court or Judge to attend before him, and be examined on oath, concerning the same, and obedience to such order may be enforced by attachment.

SEC. 261. In case judgment be entered for the plaintiff in such action, how satisfied. the Sheriff or Constable shall satisfy the same out of the property attached

by him, if it shall be sufficient for that purpose-

1. By paying over to such plaintiff the proceeds of all sales of perishable property, and of any vessel, or share or interest in any vessel, sold by him, or of any debts or credits collected by him, or so much as shall be

necessary to satisfy such judgment.

2. If any balance remain due, and an execution shall have been issued on such judgment, he shall proceed to sell, under such execution, so much of the attached property, real or personal, except as provided in sub-division four of this Section, as may be necessary to satisfy the balance, if enough for that purpose shall remain in his hands; and in case of the sale of any rights or shares in the stock of a corporation or association, the Sheriff or Constable shall execute to the purchaser a certificate of sale thereof, and the purchaser shall thereupon have all the rights and privileges in respect thereto which were had by such defendant.

3. If any of the attached property belonging to the defendant shall have passed out of the hands of the Sheriff or Constable without having been sold or converted into money, such Sheriff or Constable shall repossess himself of the same, and for that purpose shall have all the authority which he had to seize the same under the attachment; and any person who shall wilfully conceal or withhold such property from the Sheriff or Constable shall be liable to double damages, at the suit of the

party injured.

Until the judgment against the defendant shall be paid, the Sheriff or Constable may proceed to collect the notes and other evidences of debt, and the debts that may have been seized or attached under the warrant of attachment, and to prosecute any bond he may have taken in the course of such proceedings, and apply the proceeds thereof to the payment of the judgment.

At the expiration of six months from the docketing of the judgment,

the Court shall have power, upon the petition of the plaintiff, accompanied by an affidavit setting forth fully all the preceedings which have been had by the Sheriff or Constable since the service of the attachment, the property attached, and the disposition thereof, and also the affidavit of the Sheriff or Constable that he has used diligence and endeavored to collect the evidences of debt in his hands so attached, and that there remains uncollected of the same any part or portion thereof, to order the Sheriff or Constable to sell the same, upon such terms and in such manner as shall be deemed proper. Notice of such application shall be given to the defendant or his attorney, if the defendant shall have appeared in In case the summons has not been personally served on the defendant, the Court shall make such rule or order, as to the service of notice and the time of service, as shall be deemed just.

When the judgment and all costs of the proceedings shall have been paid, the Sheriff or Constable, upon reasonable demand, shall deliver over to the defendant the residue of the attached property, or the pro-

ceeds thereof.

for recovery of notes, &c., may be proseby the plaintin in the action in

Sheriff or Con-

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how disposed

of on a judg-ment for the

defendant.

action.

Sec. 262. The actions herein authorized to be brought by the Sheriff When action or Constable may be prosecuted by the plaintiff, or under his direction, upon the delivery by him to the Sheriff or Constable of an undertaking of defendant executed by two sufficient sureties, to the effect that the plaintiff will indemnify the Sheriff or Constable from all damages, costs and expenses on account thereof, not exceeding two hundred and fifty dollars in any one which the at- action. Such sureties shall, in all cases, when required by the Sheriff or tachment is Constable justify by making an affidavit that cash is a barrier of the sheriff or Constable, justify by making an affidavit that each is a householder, and worth double the amount of the penalty of the bond, over and above all demands and liabilities.

SEC. 263. If the foreign corporation, or absent or absconding or con-Bond to the cealed defendant, recover judgment against the plaintiff in such action, stable on any bond taken by the Sheriff or Constable, except such as are mentioned in the last Section, all the proceeds of sales and moneys collected by him, and all the property attached remaining in his hands, shall be delivered by him to the defendant, or his agent, on request, and the warrant shall be discharged, and the property released therefrom.

SEC. 264. Whenever the defendant shall have appeared in such action, Discharge of he may apply to the officer who issued the attachment, or to the Court, attachment & return of pro- for an order to discharge the same; and if the same be granted, all the or its proceeds of sales and moneys collected by him, and all the property atpercent to proceeds of sales and moneys concerns of the proceeds of tached remaining in his hands, shall be delivered or paid by him to the

defendant or his agent, and released from the attachment.

And where there is more than one defendant, and several property of either of the defendants has been seized by virtue of the order of attachment, the defendant whose several property has been seized may apply to the officer who issued the attachment for relief under this Section.

Sec. 265. Upon such application, the defendant shall deliver to the

Undertaking Court or officer an undertaking executed by at least two sureties, who are the part of resident and freeholders or householders in this State, approved by such -discharge of Court or officer, to the effect that such sureties will, on demand, pay to the plaintiff the amount of judgment that may be recovered against the defendant in the action, not exceeding the sum specified in the undertaking, which shall be at least double the amount claimed by the plaintiff in his complaint. If it shall appear by affidavit that the property attached be

less than the amount claimed by the plaintiff, the Court, or officer issuing the attachment, may order the same to be appraised, and the amount of the undertaking shall then be double the amount so appraised. And in all cases the defendant may move to discharge the attachment, as in the case of other provisional remedies.

And where there is more than one defendant, and several property of either of the defendants has been seized by virtue of the order of attachment, the defendant whose several property has been seized may deliver to the Court or officer an undertaking, in accordance with the provisions of this Section, to the effect that he will, on demand, pay to the plaintiff the amount of judgment that may be recovered against such defendant. And all the provisions of this Section applicable to such undertaking shall be applied thereto.

SEC. 266. When the warrant shall be fully executed or discharged, the iff to return Sheriff or Constable shall return the same, with his proceedings thereon, warrant with to the Court in which the action was brought.

to the Court in which the action was brought.

CHAPTER V.

PROVISIONAL REMEDIES.

SEC. 267. A receiver may be appointed:

1. Before judgment, on the application of either party, when he establishes an apparent right to property which is the subject of the action, ceivers, depoand which is in the possession of an adverse party, and the property, or its set of money, rents and profits, are in danger of being lost, or materially injured or im- and other propaired; except in cases where judgment upon failure to answer may be visional remhad without application to the Court.

Judgment for sum ad-

2. After judgment, to carry the judgment into effect.

3. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or when an mitted due. execution has been returned unsatisfied, and the judgment-debtor refuses

to apply his property in satisfaction of the judgment.

4. In the cases provided in this Code and by statute, when a corporation has been dissolved, or is insolvent or in imminent danger of insolvency, or has forfeited its corporate rights; and in like cases, of the property within this State of foreign corporations. Receivers of the property within this State of foreign or other corporations shall be allowed such commissions as may be fixed by the Court appointing them, not exceeding five per cent. on the amount received and disbursed by them.

5. In such other cases as are now provided by law, or may be in accordance with the existing practice, except as otherwise provided in

When it is admitted, by the pleading or examination of a party, that he has in his possession or under his control any money or other thing capable of delivery, which, being the subject of litigation, is held by him as trustee, for another party, or which belongs or is due to another party, the Court may order the same to be deposited in Court, or delivered to such party, with or without security, subject to the further direction of the Court.

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Whenever, in the exercise of its authority, a Court shall have ordered the deposit, delivery or conveyance of money or other property, and the order is disobeyed, the Court, besides punishing the disobedience as for contempt, may make an order requiring the Sheriff or Constable to take the money or property, and deposit, deliver, or convey it, in conformity with the direction of the Court.

When the answer of the defendant expressly, or by not denying, admits part of the plaintiff's claim to be just, the Court, on motion, may order such defendant to satisfy that part of the claim, and may enforce the

order as it enforces a judgment or provisional remedy.

TITLE VIII.

OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS.

CHAPTER I. Judgment upon failure to answer, &c.

II. Issues and the mode of trial.

III. Trial by jury.

IV. Trial by the Court.
V. Trial by referees.

VI. The manner of entering judgment.

CHAPTER I.

JUDGMENT UPON FAILURE TO ANSWER, &C.

Sec. 268. Judgment defined.

269. Judgment on failure of defendant to answer, or for excess over counter claim.

270. Judgment on frivolous demurrer, answer or reply.

Judgment defined.

Judgment

SEC. 268. A judgment is the final determination of the rights of the parties in the action.

SEC. 269. Judgment may be had, if the defendant fail to answer the

on failure of defendant to complaint, as follows:

answer, or for 1. In any action arising on contract for the recovery of money only, counter claim the plaintiff may file with the Clerk proof of personal service of the summons and complaint on one or more of the defendants, or of the summons according to the provisions of Section one hundred and fifty-three, and that no answer has been received. The Clerk shall thereupon enter judgment for the amount mentioned in the summons, against the defendant, or defendants, or against one or more of several defendants, in the cases provided for in Section one hundred and fifty-nine But if the complaint be not sworn to, and such action is on an instrument for the payment of money only, the Clerk, on its production to him, shall assess the amount due to the plaintiff thereon; and in other cases shall ascertain the amount which the plaintiff is entitled to recover in such action, from his examination, under oath, or other proof, and enter the judgment for the amount so

assessed or ascertained. In case the defendant give notice of appearance in the action, he shall be entitled to five days' notice of the time and place

of such assessment.

Where the defendant, by his answer in any such action, shall not deny the plaintiff's claim, but shall set up a counter claim, amounting to less than the plaintiff's claim, judgment may be had by the plaintiff for the excess of said claim over the said counter claim, in like manner in any such action, upon the plaintiff's filing with the Clerk of the Court a statement admitting such counter claim, which statement shall be an-

nexed to and be a part of the judgment-roll.

2. In other actions the plaintiff may, upon the like proof, apply to the Court, after the expiration of the time for answering, for the relief demanded in the complaint. If the taking of an account or the proof of any fact be necessary to enable the Court to give judgment, or to carry the judgment into effect, the Court may take the account or hear the proof, or may, in its discretion, order a reference for that purpose. And where the action is for the recovery of money only, or of specific real or personal property, with damages for the withholding thereof, the Court may order the damages to be assessed by a jury, or, if the examination of a long account be involved, by a reference as above provided. If the defendant give notice of appearance in the action before the expiration of the time for answering, he shall be entitled to eight days' notice of the time and place of application to the Court for the relief demanded by the complaint.

3. In actions where the service of the summons was by application, the plaintiff may, in like manner, apply for judgment, and the Court must thereupon require proof to be made of the demand mentioned in the complaint; and if the defendant be not a resident of the State, must require the plaintiff or his agent to be examined on oath respecting any payments that have been made to the plaintiff, or to any one for his use, on account of such demand, and may render judgment for the amount which he is entitled to recover. Before rendering judgment the Court may, in its discretion, require the plaintiff to cause to be filed satisfactory security, to abide the order of the Court, touching the restitution of any estate or effects which may be directed by such judgment to be transferred or delivered, or the restitution of any money that may be collected under or by virtue of such judgment, in case the defendant or his representatives shall apply and be admitted to defend the action, and shall succeed in such defence.

SEC. 270. If a demurrer, answer or reply be frivolous, the party prejudiced thereby, upon a previous notice of five days, may apply to a Judge demurrer, and of the Court, either in or out of the Court, for judgment thereon, and swer or reply. judgment may be given accordingly.

CHAPTER II.

ISSUES AND THE MODE OF TRIAL.

SEC. 271. The different kinds of issues.

272. Issue of law.

273. Issue of fact.

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A. D. 1870.

Sec. 274. On issues of both law and fact. The issue of law to be first tried.

275. Trial defined.

276. Issues. How tried.

277. Issues triable by the Court.

278. Either party may give notice of trial. Note of issue.

279. Stenographer to be appointed by the several Circuits. take stenographic notes.

280. Duty of stenographer.

281. Order of disposing of issues on the calendar.

Sec. 271. Issues arise upon the pleadings when a fact or conclusion of The different kinds of law is maintained by the one party and controverted by the other. They issues. are of two kinds:

1. Of law; and,

2. Of fact.

Issue of law.

Sec. 272. An issue of law arises:

1. Upon a demurrer to the complaint, answer or reply, or to some part thereof.

SEC 273. An issue of fact arises: Issue of fact.

1. Upon a material allegation in the complaint controverted by the an-

2. Upon new matter in the answer controverted by the reply; or,

Upon new matter in the reply, except an issue of law is joined thereon.

On issues of

SEC. 274. Issues, both of law and of fact, may arise upon different both law and parts of the pleadings in the same action. In such case of law to be law must be first tried, unless the Court otherwise direct. parts of the pleadings in the same action. In such cases, the issues of

Sec. 275. A trial is the judicial examination of the issues between the

Trial defin- parties, whether they be issues of law or of fact.

SEC. 276. An issue of law must be tried by the Court, unless it be re-Issues, how ferred as provided in Sections two hundred and ninety-four and two hundred and ninety-five. An issue of fact, in an action for the recovery of money only, or of specific real or personal property, or for a divorce from the marriage contract on the ground of adultery, must be tried by a jury, unless a jury trial be waived, as provided in Section two hundred and ninety, or a reference be ordered, as provided in Sections two hundred and ninety-four and two hundred and ninety-five.

Sec. 277. Every other issue is triable by the Court, which, however, Other issues may order the whole issue, or any specific question of fact involved to be tried by the Court. therein, to be tried by a jury, or may refer it, as provided in Sections two

hundred and ninety-four and two hundred and ninety-five. SEC. 278. At any time after issue, and at least fourteen days before the Either party Court, either party may give notice of trial. The party giving the nomay give no-tice of trial. tile shall furnish the Clerk, at least eight days before the Court, with a

Note of is- note of the issue containing the title of the action, the names of the attorneys, and the time when the last pleading was served, and the Clerk shall thereupon enter the cause upon the calendar, according to the date of the There need be but one notice of trial, and one note of issue from either party, and the action shall then remain on the calendar until disposed of, and when called may be brought to trial by the party giving the notice. In every action in which issue of fact is now joined, and the ac-

tried.

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tion is now placed upon the calendar of the Court of Common Pleas, in the First, Second and Fifth Circuits, the party who shall have filed such note of issue, shall, as a condition precedent to such action being brought to trial, pay to the Clerk of the Court the sum of three dollars; and in every action in either of the said Courts, commenced after the passage of this Act, the party who shall file therein a first note of issue of fact, shall, as a condition precedent to such filing, pay to the Clerk of the Court the sum of three dollars; and the amounts so received shall be accounted for under oath, and paid over monthly, by the Clerk of each of said Courts, to the County Treasurer, to be used as a fund for the payment of the salaries of stenographers employed in Courts. If the fund thus created be inadequate to pay such salaries, the additional amount necessary for such payment shall be paid by the County Treasurers of the several Counties in the Circuit out of any moneys raised for County purposes, and in proportion to the valuation for taxation of their respective Counties. several County Auditors in a Circuit shall furnish the Circuit Solicitor, on demand, a certificate of the amount of taxable property in their respective Counties, upon which he shall apportion to said Counties the several sums to be paid by them to the stenographer, which sums shall be paid upon the order of the Solicitor, approved by the Judge of the Circuit. Any surplus in the fund received by County Treasurers to pay the salary of stenographers shall be appropriated to County purposes.

Duty of sten-

SEC. 279. The Judges of the First, Second and Fifth Circuit Courts A stenograshall each appoint a stenographer for their several Circuits, who shall be appointed for a sworn officer of the Court, and who shall hold office during the pleasure three circuits, of the Court, and shall be reid a salary of twenty-five hundred dollars. SEC. 279. The Judges of the First, Second and Fifth Circuit Courts of the Court, and shall be paid a salary of twenty-five hundred dollars stemographic per annum, payable quarterly, upon the order of the presiding Judge. shall be the duty of every stenographer so appointed for any Circuit, under the direction of the presiding Judge thereof, to take full stenographic notes of all proceedings, including the rulings and charge of the Court in every trial thereat, and in case the presiding Judge shall require a transcript of said stenographic notes, he may order the same to be furnished by the stenographer.

SEC. 280. It shall be the duty of such stenographer to furnish to any party to such trials, upon request, a copy of the evidence and proceedings taken by him on such trials, or of such part thereof as may be required, on payment, on behalf of such party, of ten cents for every one hundred words of the copy so furnished. The sum paid as a condition precedent to the cause being brought on trial, or to the first note of issue being filed as hereinbefore provided, shall be deemed a necessary disbursement within the meaning of Section three hundred and thirty-seven of the Code of Procedure, and shall be allowed as such to the prevailing party in the action.

SEC. 281. The issues on the calendar shall be disposed of in the following order, unless, for the convenience of parties or the dispatch of business, sues on the the Court shall otherwise direct:

calendar.

- 1. Issues of fact to be tried by a jury;
- 2. Issues of fact to be tried by the Court;
- 3. Issues of law.

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CHAPTER III.

TRIAL BY JURY.

SEC. 282. Notice of trial. Separate trials.

283. Court to be furnished with a copy of the pleadings.

284. General and special verdicts defined.

285. When jury may render either general or special verdict, and when the Court may direct a special finding.

286. On special finding with a general verdict, the former to con-

287. Jury to assess defendant's damages in certain cases.

288. Entry of the verdict. Motion for new trial.

289. Motion for new trial, or for judgment on special verdict, where to be heard.

Notice of tri-

The Court to

SEC. 282. Either party giving the notice, may bring the issue to trial, and in absence of the adverse party, unless the Court, for good cause, otherwise direct, may proceed with his case, and take a dismissal of the Separate tri- complaint, or a verdict or judgment, as the case may require. A separate trial between a plaintiff and any of the several defendants may be allowed by the Court, whenever, in its opinion, justice will thereby be promoted.

SEC. 283. When the issue shall be brought to trial by the plaintiff, he be furnished shall furnish the Court with a copy of the summons and pleadings, with with a copy of pleadings, ac. the offer of defendant, if any shall have been made. When the issue shall be brought to trial by the defendant, and the plaintiff shall neglect or refuse to furnish the Court with a copy of the summons and pleadings and the offer of the defendant, the same may be furnished by the defendant.

special dict defined.

Sec. 284. A general verdict is that by which the jury pronounce gene-General and ver- rally upon all or any of the issues, either in favor of the plaintiff or defendant. A special verdict is that by which the jury find the facts only, leaving the judgment to the Court.

ing.

Sec. 285. In an action for the recovery of specific personal property, When jury to render gen. if the property have not been delivered to the plaintiff, or if it have, and eral or special the defendant by his answer claim a return thereof, the jury shall assess verdict, and the deletation of the property, if their verdict be in favor of the plaintiff; or when court the value of the property, if their verdict be in favor of the plaintiff; or when court the value of the property, if their verdict be in favor of the plaintiff; or may direct a fit they find in favor of the defendant, and that he is entitled to a return thereof; and may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention or taking and withholding such property.

In every action for the recovery of money only, or specific real property, the jury, in their discretion, may render a general or special verdict. In all other cases the Court may direct the jury to find a special verdict in writing, upon any or all of the issues; and in all cases may instruct them, if they render a general verdict, to find upon particular questions of fact, to be stated in writing, and may direct a written finding thereon. The special verdict or finding shall be filed with the Clerk, and entered upon the minutes.

On special finding with general ver-dict, former

SEC. 286. Where a special finding of facts shall be inconsistent with the general verdict, the former shall control the latter, and the Court shall give judgment accordingly.

Sec. 287. When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant when a set-off for the recovery of money is established beyond the amount of the plaintiff's sess claim as established, the jury must also assess the amount of the recovery; ant's damages in certain cathey may also, under the direction of the Court, assess the amount of the ses. recovery when the Court give judgment for the plaintiff on the answer. If a set-off, established at the trial, exceed the plaintiff's demand so established, judgment for the defendant must be given for the excess; or if it appear that the defendant is entitled to any other affirmative relief,

judgment must be given accordingly.

SEC. 288. [1.] Upon receiving a verdict, the Clerk shall make an entry in his minutes, specifying the time and place of the trial, the names tion for new of the jurors and witnesses, the verdict, and either the judgment rendered trial on the Judge's minthereon, or an order that the cause be reserved for argument or further utes. consideration. If a different direction be not given by the Court, the Clerk must enter judgment in conformity with the verdict. [2.] If an exception be taken, it may be reduced to writing at the time, or entered in the Judge's minutes, and afterwards settled as provided by the rules of Court, and then stated in writing in a case, or separately, with so much of the evidence as may be material to the questions to be raised, but need not be sealed or signed, nor need a bill of exceptions be made. [3.] If the exceptions be in the first instance stated in a case, and it be afterwards necessary to separate them, the separation may be made under the direction of the Court, or a Judge thereof. [4.] The Judge who tries the cause may, in his discretion, entertain a motion, to be made on his minutes, to set aside a verdict and grant a new trial upon exceptions, or for insufficient evidence, or for excessive damages; but such motions in actions hereafter tried, if heard upon the minutes, can only be heard at the same term at which the trial is had. When such motion is heard and decided upon the minutes of the Judge, and an appeal is taken from the decision, a case or exceptions must be settled in the usual form, upon which the argument of the appeal must be had.

SEC. 289. A motion for a new trial, on a case or exceptions, or otherwise, and an application for judgment on a special verdict or case reserved new trial on a case, acc. for argument or further consideration, must, in the first instance, be heard Verdict suband decided at the same term, except that when exceptions are taken ject the Judge trying the cause may, at the trial, direct them to be heard in Court. the first instance at the next or special term, and the judgment in the meantime suspended; and in that case they must be there heard in the first instance, and judgment there given. And when, upon a trial, the case presents only questions of law, the Judge may direct a verdict.

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Jury to as-

Entry of the verdict. Mo-

Motion for opinion of the

CHAPTER IV.

TRIAL BY THE COURT.

Sec. 290. Trial by jury, how waived.

291. On trial by the Court, judgment, how given.

292. Exceptions, how and when taken. Judgment at general term.

293. Proceedings upon judgment on issue of law.

A. D. 1870. Trial by jury, how waived.

Sec. 290. Trial by jury may be waived by the several parties to an issue of fact, in actions on contract, and, with the assent of the Court, in other actions, in the manner following:

1. By failing to appear at the trial.

2. By written consent, in person, or by attorney, filed with the Clerk.

3. By oral consent in open Court, entered in the minutes.

On trial by the Court. Judgment how to be giv-

SEC. 291. Upon the trial of a question of fact by the Court, its decision shall be given in writing, and shall contain a statement of the facts found, and the conclusions of law, separately; and upon a trial of an issue of law, the decision shall be made in the same manner, stating the conclusions of law. Such decision shall be filed with the Clerk within sixty days after the Court at which the trial took place. Judgment upon the decision shall be entered accordingly.

Motion for

Sec. 292. [1.] For the purposes of an appeal, either party may except Exceptions, to a decision on a matter of law arising upon such trial within ten days after notice in writing of the judgment, in the same manner and with the same effect as upon a trial by jury: Provided, however, That where new trial.

Judgmentat the decision filed under Section two hundred and ninety-one does not authorize a final judgment, but directs further proceedings before a referee or otherwise, either party may move for a new trial at the next term, and for that purpose may, within ten days after notice of the decision being filed, except thereto, and make a case or exceptions as above provided in cases of an appeal.

> [2.] And either party desiring a review upon the evidence appearing on the trial, either of the questions of fact or of law, may, at any time within ten days after notice of the judgment, or within such time as may be prescribed by the rules of the Court, make a case or exceptions in like manner as upon a trial by jury, except that the Judge, in settling the case, must briefly specify the facts found by him, and his conclusion of

Proceedings on judgment on

SEC. 293. On a judgment for the plaintiff upon an issue of law, the plaintiff may proceed in the manner prescribed by the first two sub-diissue at visions of Section two hundred and sixty-nine, upon the failure of the defendant to answer, where the summons was personally served. If judgment be for the defendant, upon an issue of law, and if taking of an account or the proof of any fact be necessary to enable the Court to complete the judgment, a reference or assessment by jury may be ordered, as in that Section provided.

CHAPTER V.

TRIAL BY REFEREES.

Sec. 294. All issues referable by consent.

295. When a reference may be compulsorily ordered.

296. Mode of trial. Effect of report.

297. Referees, how chosen.

issues referable consent.

Sec. 294. All or any of the issues in the action, whether of fact or of by law, or both, may be referred upon the written consent of the parties.

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SEC. 295. Where the parties do not consent, the Court may, upon the application of either, or of its own motion, except where the investigation will require the decision of difficult questions of law, direct a reference in the following cases:

When reference they be compulsorily ordered.

Effect of

Deci-

A. D. 1870.

1. Where the trial of an issue of fact shall require the examination of a long account on either side; in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or,

2. Where the taking of an account shall be necessary for the information of the Court, before judgment, or for carrying a judgment or order into effect; or,

3. Where a question of fact, other than upon the pleadings, shall arise,

upon motion or otherwise, in any stage of the action.

Sec. 296. The trial by referees shall be conducted in the same manner, al. and on similar notice, as a trial by the Court. They shall have the same report. power to grant adjournments, and to allow amendments to any pleadings and to the summons, as the Court, upon such trial, upon the same terms and with the like effect. They shall have the same power to preserve order and punish all violations thereof upon such trial, and to compel the attendance of witnesses before them by attachment, and to punish them as for contempt for non-attendance or refusal to be sworn or testify, as is possessed by the Court. They must state the facts found, and the conclusions of law separately; and their decision must be given, and may be excepted to and reviewed in like manner, and with like effect in all respects as in cases of appeal under Section two hundred and ninety-two; and they may in like manner settle a case or exceptions. The report of the referees upon the whole issue shall stand as the decision of the Court, and judgment may be entered thereon in the same manner as if the action had been tried by the Court. When the reference is to report the facts, the report shall have the effect of a special verdict.

When the case shall have been heard and decided upon the report of the referee and exceptions, the decision may be reviewed, on appeal to

the Supreme Court.

SEC. 297. In all cases of reference the parties to whom issues are formed in the action (except when the defendant is an infant or an absentee) may agree in writing upon a person or persons, not exceeding three, and a reference shall be ordered to him or them, and to no other person And if such parties do not agree, the Court shall appoint or persons. one or more referees, not more than three, who shall be free from exception. And no person shall be appointed referee to whom all parties in the action shall object, except in actions for divorce. Judge or Justice of any Court shall sit as referee in any action pending in the Court of which he is Judge or Justice, and not already referred, unless the parties otherwise stipulate. The referee or referees shall make and deliver a report within sixty days from the time the action shall be finally submitted; and in default thereof, and before the report is delivered, either party may serve notice upon the opposite party that he elects to end the reference; and thereupon the action shall proceed as though no reference had been ordered, and the referees shall not in such case be entitled to any fees.

Referees how to be chosen. Who may be referee. Report.

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CHAPTER VI.

MANNER OF ENTERING JUDGMENT.

Sec. 298. Judgment may be for or against any of the parties to the action; may grant defendant affirmative relief. plaint may be dismissed for neglect to prosecute the Judgment against married women.

299. The relief to be awarded to the plaintiff.

300. Rates of damages where damages are recoverable.

301. Judgment in action for recovery of personal property.

302. Judgment, how directed.

303. Clerk to keep a judgment-book.

304. Judgment to be entered in judgment-book.

305. Judgment-roll. Transcript of judgment filed in any other County—effect of.

the parties-may grant defendant affir-

Complaint may be dis-missed for ne-

glect to prose-

cute action.

SEC. 298. 1. Judgment may be given for or against one or more of sev-Judgment eral plaintiffs, and for or against one more of several defendants; and it may be for or may determine the ultimate rights of the parties on each side, as between themselves.

2. And it may grant to the defendant any affirmative relief to which he

mative relief. may be entitled.

3. In an action against several defendants, the Court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment may be proper.

4. The Court may also dismiss the complaint, with costs in favor of one or more defendants, in case of unreasonable neglect on the part of the plaintiff to serve the summons on other defendants, or to proceed in the cause against the defendant or defendants served.

In action brought by or against a married woman, judgment may be given against her as well for costs as for damages, or both for such costs and for such damages, in the same manner as against other persons, to be

levied and collected of her separate estate, and not otherwise.

The relief to be awarded to plaintiff.

damages ar recoverable.

Sec. 299. The relief granted to the plaintiff, if there be no answer, cannot exceed that which he shall have demanded in his complaint; but in any other case the Court may grant him any relief consistent with the case made by the complaint and embraced within the issue.

SEC. 300. Whenever damages are recoverable, the plaintiff may claim Rate of damage where the and recover, if he show himself entitled thereto, any rate of damages which he might have heretofore recovered for the same cause of action.

Sec. 301. In an action to recover the possession of personal property, Judgment in judgment for the plaintiff may be for the possession, or for the recovery of covery of per-possession, or the value thereof, in case a delivery cannot be had, and of sonal proper-damages for the detention. If the property have been delivered to the ty. plaintiff, and the defendant claim a return thereof, judgment for the defendant may be for a return of the property, or the value thereof, in case a return cannot be had, and damages for taking and withholding the same.

Judgment-

Sec. 302. Judgment upon an issue of law, or of fact found, or upon how directed, confession, or upon failure to answer, or upon report of referees (except where the Clerk is authorized to enter the same, by the first sub-division of Section two hundred and sixty-nine, and by Section four hundred and one,) shall be entered upon the direction of a Judge, subject to review on appeal in the Supreme Court.

SEC. 303. The Clerk shall keep among the records of the Court a book r the entry of judgment, to be called the "Judgment Book."

The Clerk to keep a Judgment book." for the entry of judgment, to be called the "Judgment Book."

SEC. 304. The judgment shall be entered in the Judgment Book, and shall specify clearly the relief granted, or other determination of the action.

Judgment to be entered in the judgment book.

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SEC. 305 Unless the party or his attorney shall furnish a judgment roll, the Clerk, immediately after entering the judgment, shall attach to-roll. gether, and file the following papers, which shall constitute the judgment roll:

Judgment-

1. In case the complaint be not answered by any defendant, the summons and complaint, or copies thereof, proof of service, and that no answer has been received, the report, if any, and a copy of the judgment.

2. In all other cases, the summons, pleadings or copies thereof, and a copy of the judgment, with any verdict or report, the offer of the defendant, exceptions, case, and all orders and papers in any way involving the

merits and necessarily affecting the judgment.

A transcript of a final judgment, directing, in whole or in part, the Transcript payment of money, may be docketed with the Clerk of the Court of fied in any Common Pleas in any other County, and, when so docketed, shall have other County, effect of. the same force and effect as a judgment of that Court.

TITLE IX.

OF THE EXECUTION OF THE JUDGMENT IN CIVIL ACTIONS.

CHAPTER I. The execution.

II. Proceedings supplementary to the execution.

CHAPTER I.

THE EXECUTION.

Sec. 306. Execution within five years of course.

307. Execution can only be issued by leave of Court after five years. Leave, how obtained.

308. Judgments, how enforced.

309. The different kinds of execution.

310. To what Counties execution may be issued. Execution against a married woman.

311. Execution against the person, in what cases.

312. Forms of execution.

313. Final judgments not a lien. Attachments on mesne process a lien for one hundred and twenty days after final judgment. use#pd-google

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A. D. 1870. SEC. 314. Attachment of real estate made by lodging a copy of execution, and officer's return with Register of Deeds. attachment a lien for one hundred and twenty days.

315. Execution to be returnable in sixty days.

316. Personal property bound only by levy.

317. Existing laws, not inconsistent with this, relating to executions. continued until otherwise provided.

Writs of execution to be enforced.

SEC. 306. Writs of execution for the enforcement of judgments as now used are modified in conformity to this title, and the party in whose favor judgment has been heretofore, or shall hereafter be, given, and, in case of his death, his personal representatives duly appointed, may, at any time within five years after the entry of judgment, proceed to enforce the same, as prescribed by this title.

-Leave, obtained.

SEC. 307. After the lapse of five years from the entry of judgment, an five execution can be issued only by leave of the Court, upon motion, with years to be isyears to be is be made by publication, or in such other manner as the Court shall direct. Such leave shall not be given unless it be established by the oath of the party, or other satisfactory proof, that the judgment, or some part thereof, remains unsatisfied and due. But the leave shall not be necessary when execution has been issued on the judgment within the five years, and returned unsatisfied in whole or in part.

When judgment shall have been rendered in a Court of a Trial Justice or other inferior Court in a city, and docketed in the office of the Clerk of the County, the application for leave to issue execution must be to the

County Court of the County where the judgment was rendered.

Judgmenthow enforced.

SEC. 308. Where a judgment requires the payment of money, or the delivery of real or personal property, the same may be enforced in those Where it requires the respects by execution, as provided in this title. performance of any other act, a certified copy of the judgment may be served upon the party against whom it is given, or the person or officer who is required thereby or by law to obey the same, and his obedience thereto enforced. If he refuse, he may be punished by the Court as for a contempt.

SEC. 309. There shall be three kinds of execution: One against the The different kinds of property of the judgment debtor; another against his person; and the third for the delivery of the possession of real or personal property, or such delivery with damages for withholding the same. They shall be

deemed the process of the Court.

SEC. 310. When the execution is against the property of the judgment Execution to debtor, it may be issued to the Sheriff of any County where judgment is be issued, to what counties docketed. When it requires the delivery of real or personal property, it must be issued to the Sheriff of the County where the property, or some in married wo- part thereof, is situated. Executions may be issued at the same time to different Counties.

> Real property adjudged to be sold must be sold, in the County where it lies, by the Sheriff of the County or by a referee appointed by the Court for that purpose; and, thereupon, the Sheriff or referee must execute a conveyance to the purchaser, which conveyance shall be effectual to pass the rights and interests of the parties adjudged to be sold.

Execution to man.

execution.

An execution may issue against a married woman, and it shall direct the levy and collection of the amount of the judgment against her from

her separate property, and not otherwise.

Sec. 311. If the action be one in which the defendant might have execution to been arrested, as provided in Section two hundred and two and Section the person, in SEC. 311. If the action be one in which the defendant might have two hundred and four, an execution against the person of the judgment what cases. debtor may be issued to any County within the jurisdiction of the Court, after the return of an execution against his property unsatisfied in whole or in part. But no execution shall issue against the person of a judgment debtor, unless an order of arrest has been served, as in this Act provided, or unless the complaint contains a statement of facts showing one or more of the causes of arrest required by Section two hundred and

A. D. 1870.

Execution to

Form of the execution.

Sec. 312. The execution must be directed to the Sheriff, or Coroner, when the Sheriff is a party or interested, attested by the Clerk, subscribed by the party issuing it, or his attorney, and must intelligibly refer to the judgment, stating the Court, the County where the judgment roll or transcript is filed, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and the time of docketing in the County to which the execution is issued, and shall require the officer, substantially, as follows:

 If it be against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of such debtor; and if sufficient personal property cannot be found, out of

the real property belonging to him.

2. If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property, or trustees, it shall require the officer to satisfy the judgment out of such prop-

3. If it be against the person of the judgment debtor, it shall require the officer to arrest such debtor and commit him to the jail of the County until he shall pay the judgment or be discharged according to law.

4. If it be for the delivery of the possession of real or personal property, it shall require the officer to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may at the same time require the officer to satisfy any costs, damages, or rents or profits recovered by the same judgment, out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered, to be specified therein; if a delivery thereof cannot be had, and if sufficient personal property cannot be found, then out of the real property belonging to him, and shall in that respect be deemed an execution against property.

SEC. 313. Final judgments, hereafter rendered, shall not of themselves constitute a lien upon real or personal property, or in any way bind the lien. real or personal property of the judgment debtor: Provided, that the real on mesne proor personal property attached and held on mesne process, in an action, cess a lien for hundred and twenty days one hundred and twenty days shall continue bound until the expiration of one hundred and twenty days after final judgment is rendered, for the purpose of satisfying the same.

SEC. 314. When an officer holding an execution for collection shall be judgment. directed by the creditor, his agent or attorney, to levy the same on the real estate of the debtor, he may lodge in the office where by law a deed of real estate, of such real estate is required to be recorded, a certified copy of such exe- how made.

Final judgments, not a

days after the

cution, with a certificate thereon, under his hand, stating that he is directed to levy the same on such real estate, substantially describing the The real estate thus described shall be held to satisfy such execution, for the term of one hundred and twenty days from the time of lodging the copy thereof; and when incumbered by previous attachments, or liens, the lien, thus created, shall remain, after the removal of such prior incumbrance, or lien, one hundred and twenty days.

The Register of Mesne Conveyance shall keep a record of such copy in

the same manner as attachments on mesne process.

Attachment a lien for one hundred and twenty days.

SEC. 315. The execution shall be returnable, within sixty days after its receipt by the officer, to the Clerk with whom the record of judgment is filed. If the first execution is returned unsatisfied, in whole or in part, another execution, as of course, may be issued at any time within the period limited by this Act for issuing executions.

Personal pro-perty bound only by levy.

SEC. 316. The lodgment of executions, hereafter issued, with the Sheriff shall not bind the personal property of the debtor, but personal property

shall only be bound by actual attachment or levy thereon.

Existing laws relating to ex-

Sec. 317. Until otherwise provided by the Legislature, the existing provisions of law, not supplied by, or in conflict with, this chapter, relating to ent with this, executions and their incidents, the property liable to sale or execution, relating to ex-coution, con-the sale thereof, the powers and rights of officers, their duties thereon, tinued until and the proceedings to enforce those duties, and the liability of their suresion be made, ties, shall apply to the executions prescribed by this chapter.

CHAPTER II.

PROCEEDINGS SUPPLEMENTARY TO THE EXECUTION.

SEC. 318. Order for discovery of property, examination of judgment debtor, &c.

319. Any debtor to execution debtor may pay his debt to Sheriff.

320. Examination of debtors of judgment debtor, or of those having property belonging to him.

321. Witnesses required to testify.

322. Compelling party or witnesses to attend.

323. What property may be ordered to be applied to the execution.

324. Judge may appoint receiver, and prohibit transfer of prop-

325. Proceedings upon claim of another party to property, or on denial of indebtedness to judgment debtor.

326. Reference by Judge.

327. Costs of proceeding.

328. Disobedience of order, how punished.

Order for dis-

SEC. 318. 1. When an execution against property of the judgment covery of pro- debtor, or any one of several debtors in the same judgment, issued perty.

Examination to the Sheriff of the County where he resides, or has a place of business, of the judg- or if he do not reside in the State, to the Sheriff of the County where a ment debtor, judgment-roll or a transcript of a Justice's judgment for twenty-five dol-

lars or upwards, exclusive of costs, is filed, is returned unsatisfied, in whole or in part, the judgment creditor, at any time after such return made, is entitled to an order from a Judge of the Circuit Court, or requiring such judgment debtor to appear and answer concerning his property, before such Judge, at a time and place specified in the order, within the County to which the execution was issued. 2. After the issuing of an execution against property, and upon proof by affidavit, of a party or otherwise, to the satisfaction of the Court, or a Judge thereof, that any judgment debtor has property which he unjustly refuses to apply towards the satisfaction of the judgment, such Court or Judge may, by an order, require the judgment debtor to appear at a specified time and place, to answer concerning the same; and such proceedings may thereupon be had for the application of the property of the judgment debtor towards the satisfaction of the judgment as are provided upon the return of an execu-3. On an examination under this Section, either party may examine witnesses in his behalf, and the judgment debtor may be examined in the same manner as a witness. 4. Instead of the order requiring the attendance of the judgment debtor, the Judge may, upon proof by affidavit or otherwise, to his satisfaction, that there is danger of the debtor's leaving the State, or concealing himself, and that there is reason to believe he has property which he unjustly refuses to apply to such judgment, issue a warrant requiring the Sheriff of any County where such debtor may be to arrest him and bring him before such Judge. being brought before the Judge, he may be examined on oath, and if it then appears that there is danger of the debtor's leaving the State, and that he has property which he has unjustly refused to apply to such judgment, ordered to enter into an undertaking, with one or more sureties, that he will, from time to time, attend before the Judge as he shall direct, and that he will not, during the pendency of the proceedings, dispose of any portion of his property not exempt from execution. In default of entering into such undertaking, he may be committed to prison by warrant of the Judge, as for a contempt. 5. No person shall, on examination, pursuant to this chapter, be excused from answering any question on the ground that his examination will tend to convict him of the commission of a fraud; but his answer shall not be used as evidence against him in any criminal proceeding or prosecution. Nor shall he be excused from answering any question, on the ground that he has, before the examination, executed any conveyance, assignment or transfer of his property for any purpose, but his answer shall not be used as evidence against him in any criminal proceeding or prosecution.

indebted to the judgment debtor may pay to the Sheriff the amount of cution against his debt, or so much thereof as shall be necessary to satisfy the execu-his creditor. tion; and the Sheriff's receipt shall be a sufficient distance.

amount so paid.

SEC. 320. After the issuing or return of an execution against property Examination of the judgment debtor, or of any one of several debtors in the same of debtors of judgment, and upon an affidavit that any person or corporation has property of such judgment debtor, or is indebted to him in an amount exceed-property being ten dollars, the Judge may, by an order, require such person or cor-longing to the poration, or any officer or member thereof, to appear at a specified time Joint debtand place, and answer concerning the same. The Judge may also, in his ors.

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discretion, require notice of such proceeding to be given to any party to

the action, in such manner as may seem to him proper.

The proceedings mentioned in this Section, and in Section three hundred and eighteen, may be taken upon the return of an execution unsatisfied, issued upon a judgment recovered in an action against joint debtors, in which some of the defendants have not been served with the summons by which said action was commenced, so far as relates to the joint property of such debtors; and all actions by creditors to obtain satisfaction of judgments out of the property of joint debtors are maintainable in the like manner and to the like effect. These provisions shall apply to all proceedings and actions now pending, and not actually terminated by any final judgment or decree.

Witnesses required to tes-

SEC. 321. Witnesses may be required to appear and testify on any proceedings under this chapter, in the same manner as upon the trial of an issue.

Sec. 322. The party or witness may be required to attend before the compelling Judge, or before a referee appointed by the Court or Judge; if before a party or wit-nesses to at referee, the examination shall be taken by the referee, and certified to the Judge. All examinations and answers before a Judge or referee, under this chapter, shall be on oath, except that when a corporation answers, the answer shall be on the oath of an officer thereof.

SEC. 323. The Judge may order any property of the judgment debtor, what pro- not exempt from execution, in the hands either of himself or any other perty may be person, or due to the judgment debtor, to be applied towards the satisfacapplied to the tion of the judgment; except that the earnings of the debtor for his perception. sonal services, at any time within sixty days next preceding the order, cannot be so applied when it is made to appear, by the debtor's affidavit or otherwise, that such earnings are necessary for the use of a family

supported wholly or partly by his labor.

Sec. 324. The Judge may also, by order, appoint a receiver of the Judge may property of the judgment debtor, in the same manner, and with the like appoint recel- authority as if the appointment was made by the Court according to appoint receipt authority, as if the appointment was made by the Court, according to hibit transfer. Section two hundred and sixty-seven. But before the appointment of de, of property. Order, ac. such receiver, the Judge shall ascertain, if practicable, by the oath of the party or otherwise, whether any other supplementary proceedings are pending against the judgment debtor, and if such proceedings are so pending, the plaintiff therein shall have notice to appear before him, and shall likewise have notice of all subsequent proceedings in relation to said receivership. No more than one receiver of the property of a judgment debtor shall be appointed. The Judge may also, by order, forbid a transfer or other disposition of the property of the judgment debtor not exempt from execution, and any interference therewith.

Whenever the Judge shall grant an order for the appointment of a receiver of the property of the judgment debtor, the same shall be filed in the office of the Clerk of the Court of Common Pleas of the County where the judgment roll in the action, or transcript from Trial Justice's judgment, upon which the proceedings are taken, is filed; and the said Clerk shall record the order in a book to be kept for that purpose in his office, to be called "Book of Orders Appointing Receivers of Judgment Debtors," and shall note the time of the filing of said order therein. certified copy of said order shall be delivered to the receiver named therein, and he shall be vested with the property and effects of the judg-

execution.

tend.

ment debtor from the time of the filing and recording of the order as The receiver of the judgment debtor shall be subject to the direction and control of the Court in which the judgment was obtained, or docketed, upon which the proceedings are founded.

But before he shall be vested with any real property of such judgment debtor, a certified copy of said order shall also be filed and recorded in the office of the Register of Mesne Conveyances of the County in which any real estate of such judgment debtor sought to be affected by such order is situated, and also in the office of the Register of Mesne Con-

veyances of the County in which such judgment debtor resides.

SEC. 325. If it appear that a person or corporation alleged to have property of the judgment debtor, or indebted to him, claims an interest in upon claim of the property adverse to him or depice the debt such interest or debt at all another party the property adverse to him, or denies the debt, such interest or debt shall or the property adverse to him, or denies the debt, such interest or debt shall or property, be recoverable only in an action against such person or corporation by the indebtedness receiver; but the Judge may, by order, forbid a transfer or other disposition of such property or interest, till a sufficient opportunity be given to the receiver to commence the action, and prosecute the same to judgment and execution; but such order may be modified or dissolved by the Judge granting the same, at any time, on such security as he shall direct.

Sec. 326. The Judge may, in his discretion, order a reference to a Refer referee agreed upon by the parties, or appointed by him, to report the evidence or the facts, and may, in his discretion, appoint such referee in

the first order, or at any time.

SEC. 327. The Judge may allow to the judgment creditor, or to any party so examined, whether a party to the action or not, witnesses' fees and disbursements, and a fixed sum in addition, not exceeding thirty dollars, as costs.

SEC. 328. If any person, party or witness, disobey an order of the Disobedience Judge or referee, duly served, such person, party or witness, may be of order, how punished. punished by the Judge as for a contempt. And in all cases of commitment under this chapter, the person committed may, in case of inability to perform the act required, or to endure the imprisonment, be discharged from imprisonment by the Court or Judge committing him, or the Court in which the judgment was rendered, on such terms as may be just.

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Proceedings debtor.

Costs of proceeding.

TITLE X.

OF THE COSTS IN CIVIL ACTIONS.

Sec. 329. Existing statutes regulating costs repealed.

330. Costs, when allowed of course to the plaintiff.

331. Costs, when allowed of course to the defendant.

332. Costs, when allowed to either party, in the discretion of the Court.

333. Amount of costs allowed.

334. Allowance in addition to costs.

335. Allowance, how computed. Difficult and extraordinary

336. Interest on verdict or report, when allowed.

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- SEC. 337. Costs, how to be inserted in judgment. Adjustment of interlocutory costs.
 - 338. Clerk's fees.
 - 339. Referee's fees.
 - 340. Costs on postponement of trial.
 - 341. Costs on a motion.
 - 342. Costs against an infant plaintiff.
 - 343. Costs in an action by or against an executor or administrator, trustee of an express trust, or a person expressly authorized by statute to sue.
 - 344. Costs on review of a decision of an inferior Court in a special proceeding.
 - 345. Costs in an action by the State.
 - 346. The like.
 - 347. Costs against assignee after action brought, of cause of action.
 - 348. Costs on a settlement.

Fee-bill abolished.

When allow-to of course ed the plain-tiff Several

instrument.

SEC. 329. All statutes establishing or regulating the costs or fees of attorneys, solicitors and counsel in civil actions are repealed; and hereafter the measure of such compensation shall be left to the agreement, express or implied, of the parties. But there may be allowed to the prevailing party, upon the judgment, certain sums, by way of indemnity, for his expenses in the action, which allowances are in this Act termed costs.

SEC. 330. Costs shall be allowed of course to the plaintiff, upon a recov-

ery, in the following cases:

1. In an action for the recovery of real property, or when a claim of title actions on one to real property arises on the pleadings, or is certified by the Court to have come in question at the trial.

2. In an action to recover the possession of personal property.

- 3. In the actions of which a Court of Trial Justice has no jurisdiction.
- 4. In an action for the recovery of money, where the plaintiff shall recover fifty dollars. But in an action for assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation, or seduction, if the plaintiff recover less than fifty dollars damages, he shall recover no more costs than damages. And in an action to recover the possession of personal property, if the plaintiff recover less than fifty dollars damages, he shall recover no more costs than damages, unless he recovers also property, the value of which, with the damages, amounts to fifty dollars, or the possession of property be adjudged to him, the value of which, with the damages, amounts to fifty dollars. Such value must be determined by the jury, court or referee by whom the action is tried. When several actions shall be brought on one bond, recognizance, promissory note, bill of exchange or other instrument in writing, or in any other case for the same cause of action, against several parties who might have been joined as defendants in the same action, no costs other than disbursements shall be allowed to the plaintiff in more than one of such actions, which shall be at his election: Provided, That the party or parties proceeded against in such other action or actions shall, at the time of the commencement of the previous action or actions, have been within this State and not secreted.

SEC. 331. Costs shall be allowed of course to the defendant in the actions mentioned in the last Section, unless the plaintiff be entitled to costs therein.

SEC. 332. In other actions, costs may be allowed, or not, in the discretion of the Court.

In all actions where there are several defendants not united in interest, and making separate defences by separate answers, and the plaintiff fails the Court to recover judgment against all the Court man and the plaintiff fails the Court. to recover judgment against all, the Court may award costs to such of the defendants as have judgment in their favor, or any of them.

In the following cases, the costs of an appeal shall be in the discretion

of the Court:

1. When a new trial shall be ordered;

2. When a judgment shall be affirmed in part and reversed in part. Sec. 333. When allowed, except in Courts of Trial Justices, costs shall costs allowed.

be as follows:

1. To the plaintiff, for all proceedings before notice of trial, in actions where judgment for failure to answer can be taken without application to the Court, fifteen dollars; where judgment can only be taken on such application, twenty-five dollars; for all proceedings after notice of and before trial, fifteen dollars; for each additional defendant served with process, not exceeding ten, two dollars; and for each necessary defendant, in excess of that number, served with process, one dollar.

2. To the defendant, for all proceedings before notice of trial, ten dollars; and for all proceedings after notice of and before trial, fifteen dollars.

3. To either party for the trial of an issue of law, twenty dollars; for every trial of an issue of fact, thirty dollars; and where the trial shall necessarily occupy more than two days, ten dollars in addition hereto.

- 4. To either party, where a new trial shall be had, for all proceedings after the granting of and before such new trial, twenty-five dollars; for attending upon and taking the deposition of a witness conditionally, or attending to perpetuate his testimony, ten dollars; for drawing interrogatories to annex to a commission for the taking of testimony, ten dollars; for attending the examination of a party before trial, ten dollars; for making and serving a case, or case containing exceptions, twenty dollars, except that where the case shall necessarily contain more than fifty folios, there shall be allowed ten dollars in addition thereto; and for making and serving amendments thereto, ten dollars. To the plaintiff, for the appointment of a guardian of an infant defendant, ten dollars; but no more than ten dollars shall be allowed for the appointment of guardians in any one action. To the plaintiff, for procuring an order of injunction, ten dollars.
- 5. To either party on appeal to the Supreme Court before argument. thirty dollars; for argument, sixty dollars; and when a judgment is affirmed, the Court may, in its discretion, also award damages for the delay, not exceeding ten per cent. on the amount of the judgment; for preparing and serving a case, or case containing exceptions, in appeals to the Supreme Court, twenty dollars.
- 6. To either party, for every term, not exceeding five, at which the cause is necessarily on the calendar and is not tried, or is postponed by order of the Court, ten dollars; and for every term not exceeding ten, excluding the term at which the cause is argued in the Supreme Court, ten dollars; but in an action hereafter brought to recover dower, before

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When allowed to defend-

ant. When allow-

admeasurements of real property aliened by the husband, the plaintiff shall not recover costs, unless it appear that the dower was demanded before the commencement of the action and was refused.

The same costs shall be allowed to the plaintiff in proceedings under chapter two, title twelve, of the second part of this Code, (Sections three hundred and ninety-two to three hundred and ninety-eight,) as upon the commencement of an action.

allowance.

SEC. 334. In addition to these allowances, there shall be allowed to Additional the plaintiff, upon the recovery of judgment by him, in any action for the partition of real property, or for the foreclosure of a mortgage, or in any action in which a warrant of attachment has been issued, or for an adjudication upon a will or other instrument in writing, and in proceedings to compel the determination of claims to real property, the sum of ten per cent. on the recovery, as in the next Section prescribed, for any amount not exceeding two hundred dollars; an additional sum of five per cent. for any additional amount not exceeding four hundred dollars; and an additional sum of two per cent. for any additional amount not exceeding one thousand dollars.

> And in the actions above named, if the same shall be settled before judgment therein, like allowances upon the amount paid or secured upon

such settlement, at one-half the rates above specified.

extraordinary cases.

Allowance, erty claimed or attached or affected by the adjudication upon the will or ted. Difficult other instrument, or sought to be partitioned and the computed. computed of assessment of an action of the adjudication upon the will or pinfeut other instrument, or sought to be partitioned, or the amount found due or unpaid upon the mortgage in an action for foreclosure. And whenever it shall be necessary to apply to the Court for an order enforcing the payment of an installment falling due, after judgment, in an action for foreclosure, the plaintiff shall be entitled to the rate of allowance in the last Section prescribed, but to no more in the aggregate than if the whole amount of the mortgage had been due when judgment was entered. Such amount of value must be determined by the Court or by the Commissioners, in case of actual partitions. In difficult and extraordinary cases, where a defence has been interposed, or in such cases where a trial has been had, and in actions or proceedings for the partition of real estate, the Court may also, in its discretion, make a further allowance to any party, not exceeding five per cent. upon the amount of the recovery or claim, or subject-matter involved.

Sec. 336. When the judgment is for the recovery of money, interest, Interest or from the time of the verdict or report until judgment be finally enport when altered, shall be computed by the Clerk, and added to the costs of the party
lowed.

onticled therete entitled thereto.

tory costs.

SEC. 337. The Clerk shall insert in the entry of judgment, on the Costs, how to application of the prevailing party, upon five days' notice to the other, except when the attorneys reside in the same city, village, or town, and Adjustment then upon two days' notice, the sum of the allowances for costs, as provided by this Code, the necessary disbursements, including the fees of officers allowed by law, the fees of witnesses, the reasonable compensation of commissioners in taking depositions, the fees of referees, and the expense of printing the papers for any hearing, when required by a rule of the Court. The disbursements shall be stated in detail and verified by affidavit. A copy of the items of the costs and disbursements shall be served, with a notice of adjustment.

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Whenever it shall be necessary to adjust costs in any interlocutory proceeding in an action, or in any special proceedings, the same shall be adjusted by the Judge before whom the same may be heard, or the Court before which the same may be decided or pending, or in such other manner as the Judge or Court may direct.

SEC. 338. The Clerk shall receive:

On every trial, from the party bringing it on, two dollars; on filing Clerk's fees. transcript, twenty-five cents;

On entering judgment, fifty cents.

He shall receive no other fee for any services whatever, in a civil action, except for copies of papers, at the rate of ten cents for every hundred words.

Sec. 339. The fees of referees shall be three dollars to each, for every Referee's fees day spent in the business of the reference; but the parties may agree in

writing upon any other rate of compensation.

SEC. 340. When an application shall be made to a Court or referees to of costs on the postpone a trial, the payment to the adverse party of a sum not exceedment of trial. ing ten dollars, besides the fees of witnesses, may be imposed, as the condition of granting the postponement.

SEC. 341. Costs may be allowed on a motion, in the discretion of the motion. Court or Judge, not exceeding ten dollars, and may be absolute or

directed to abide the event of the action.

SEC. 342. When costs are adjudged against an infant plaintiff, the Costs against guardian by whom he appeared in the action shall be responsible there-tiff.

for, and payment thereof may be enforced by attachment.

SEC. 343. In an action prosecuted or defended by an executor, administrator, trustee of an express trust, or a person expressly authorized by gainst an exstatute, costs shall be recovered, as in an action by and against a person entire or administrator, and against a person entire or administrator, and against a person entire or defending in his own right; but such costs shall be prosecuting or defending in his own right; but such costs shall be trustee of an chargeable only upon or collected of the estate, fund, or party representations or a person sented, unless the Court shall direct the same to be paid by the plaintiff expressly authorized by or defendant personally, for mismanagement or bad faith in such action statute to sue. or defence.

SEC. 344. When the decision of a Court of inferior jurisdiction in a special proceeding, including appeals from Probate Courts, shall be view of a debrought before the Circuit Court for review, such proceeding shall, for inferior court all purposes of cost, be deemed an action at issue on a question of law in a special all purposes of cost, be deemed an action at issue, on a question of law, in a special proceeding. from the time the same shall be brought into Court, and costs thereon shall be awarded and collected in such manner as the Court shall direct,

according to the nature of the case.

SEC. 345 In all civil actions, prosecuted in the name of the State, by an officer duly authorized for that purpose, the State shall be liable for state. costs in the same cases, and to the same extent as private parties. private person be joined with the State as plaintiff, he shall be liable in the first instance for the defendant's costs, which shall not be recovered of the State till after execution issued therefor against such private party and returned unsatisfied.

SEC. 346. In an action prosecuted in the name of the State, for the recovery of money or property, or to establish a right or claim for the benefit of any county, city, town, village, corporation or person, costs awarded against the plaintiff shall be a charge against the party for whose benefit

the action was prosecuted, and not against the State.

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Security costs.

Costs or re-

Costs in action by the

The same.



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A. D. 1870. Costs against assignee after

menced.

SEC. 347. In actions in which the cause of action shall, by assignment after the commencement of the action, or in any other manner, become the property of a person not a party to the action, such person shall be anaction com- liable for the costs in the same manner as if he were a party, and payment thereof may be enforced by attachment.

SEC. 348. Upon the settlement, before judgment, of any action men-Costs on a tioned in Section three hundred and thirty, no greater sum shall be settlement. demanded from the defendant as costs than at the rates prescribed by that Section.

TITLE XI.

OF APPEALS IN CIVIL ACTIONS.

CHAPTER I. Appeals in general.

II. Appeals to the Supreme Court.

III. Appeal to the Circuit Court from an inferior Court.

CHAPTER I.

APPEALS IN GENERAL.

SEC. 349. Writs of error abolished, and appeals substituted.

350. Orders made out of Court, how vacated or modified.

351. Who may appeal.

352. Parties, how designated on appeal.

353. Appeal, how made.

354. Clerk to transmit papers to Appellate Court.

355. Intermediate orders affecting the judgment may be reviewed on the appeal from the judgment.

356. Judgment on appeal.

357. Time for appealing.

SEC 349. Writs of error in civil and criminal actions, as they have writs of er- heretofore existed, are abolished; and the only mode of reviewing a ror abolished judgment or order in a civil or criminal action shall be that prescribed by and appeals this title.

SEC. 350. An order, made out of Court, without notice to the adverse Orders made party, may be vacated or modified, without notice, by the Judge who out of Court, made it, or may be vacated or modified on notice, in the manner in which or modified. other motions are made.

Whomayap- this title. Sec. 351. Any party aggrieved may appeal in the cases prescribed in peal

Sec. 352. The party appealing shall be known as the appellant, and Parties, how the adverse party as the respondent. But the title of the action shall not be changed in consequence of the appeal.

SEC. 353. (1.) An appeal must be made by the service of a notice, in Appeal, how writing, on the adverse party, and on the Clerk with whom the judgment or order appealed from is entered, stating the appeal from the same or

some specified part thereof. (2.) When a party shall give, in good faith, notice of appeal from a judgment or order, and shall omit, through mistake, to do any other act necessary to perfect the appeal or to stay proceedings, the Court may permit an amendment on such terms as may be A. D. 1870.

SEC. 354. If the appellant shall not, within twenty days after his appeal is perfected, cause a certified copy of the notice of appeal and of ston of papers the judgment roll, or, if the appeal be from an order or any part thereof, Court. a certified copy of such order, and the papers upon which the order was granted, to be transmitted to the Appellate Court by the Clerk with whom the notice of appeal is filed, the respondent may cause such certified copy to be transmitted by such Clerk to the Appellate Court, and recover the expenses thereof, as a disbursement on such appeal, in case the judgment or order appealed from shall be in whole or in part affirmed; and this provision shall apply to all appeals heretofore taken, where the appeal has not been dismissed in the manner provided by the rules of the Appellate

Sec. 355. Upon an appeal from a judgment, the Court may review any intermediate order involving the merits, and necessarily affecting the ate orders affecting judgjudgment.

Intermediment.

SEC. 356. Upon an appeal from a judgment or order, the Appellate Court may reverse, affirm or modify the judgment or order appealed from, in the respect mentioned in the notice of appeal, and as to any or all of the parties, and may, if necessary or proper, order a new trial. When the judgment is reversed or modified, the Appellate Court may make complete restitution of all property and rights lost by the erroneous judgment.

Judgment on appeal. Restitution.

SEC. 357. The appeal to the Supreme Court under sub-division two of Section eleven of this Code, must be taken within sixty days after written notice of the order shall have been given to the party appealing; every other appeal allowed by the second chapter of this title must be taken within two years after the judgment shall be perfected by filing the judgment roll.

CHAPTER II.

APPEALS TO THE SUPREME COURT.

SEC. 358. Appeal, in what cases.

359. On appeal, security must be given or deposit made, unless waived.

360. On judgment for money, security to stay execution. dertaking, on sureties in the first becoming insolvent.

361. If judgment be to deliver document or personal property, it must be deposited or security given.

362. If judgment be to execute conveyance, it must be executed and deposited.

363. Security where judgment is to deliver real property, or for a sale of mortgaged premises.

SEC. 364. Stay of proceedings upon security being given.

365. Undertakings may be in one instrument or several.

366. Security to be approved and sureties to justify.

367. Perishable property may be sold, notwithstanding appeal.

368. Undertaking must be filed.

in

SEC. 358. An appeal may be taken to the Supreme Court in the cases mentioned in Section eleven. When the Circuit Court shall render judg-The Judg-ment upon a verdict taken, subject to the opinion of the Court, the ques-menton a verdict subject to tions or conclusions of law, together with a concise statement of the facts opinion of the upon which they arose, shall be prepared by and under the direction of the Court, and shall be filed with the judgment roll, and be deemed a part thereof, for the purposes of a review in the Supreme Court.

> The provisions of this Section shall apply to any judgment therein mentioned that has been heretofore rendered, and upon which an appeal has been brought and is now pending, or upon which an appeal shall hereafter be brought. When the return has already been filed with the Clerk of the Supreme Court such statement shall be filed with him, and

be deemed a part of such return.

SEC. 359. To render an appeal effectual for any purpose, a written un-On appeal, security must dertaking must be executed on the part of the appellant by at least two be given, or sureties, to the effect that the appellant will pay all costs and damages deposit made unless waived which may be awarded against him on the appeal, not exceeding three hundred dollars, or that sum must be deposited with the Clerk with whom the judgment or order was entered, to abide the event of the ap-Such undertaking or deposit may be waived by a written consent on the part of the respondent.

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solvent.

SEC. 360. If the appeal be from a judgment directing the payment of money, it shall not stay the execution of the judgment, unless a written for money, se-for money, se-curity to stay undertaking be executed on the part of the appellant, by at least two execution.

New under- sureties, to the effect that, if the judgment appealed from, or any part taking on su- thereof, be affirmed, or the appeal be dismissed, the appellant will pay reties in first the appeal of becoming in the amount directed to be paid by the judgment, or the part of such amount as to which the judgment shall be affirmed, if it be affirmed only in part, and all damages which shall be awarded against the appellant upon the appeal. Whenever it shall be made satisfactorily to appear to the Court that since the execution of the undertaking the sureties have become insolvent, the Court may, by rule or order, require the appellant to execute, file and serve a new undertaking as above; and in case of neglect to execute such undertaking within twenty days after the service of a copy of the rule or order requiring such new undertaking, the appeal may, on motion to the Court, be dismissed with costs. shall be necessary for a party to any action or proceeding to give a bond or an undertaking with surety or sureties, he may, in lieu thereof, deposit with the officer or into Court, as the case may require, money to the amount for which such bond or undertaking is to be given. The Court in which such action or proceeding is pending may direct what disposition shall be made of such money, pending the action or proceeding. any case where, by this Section, the money is to be deposited with an officer, a Judge of the Court, in term or at chambers, upon the application of either party, may, before such deposit is made, order it to be deposited in Court instead of with such officer; and a deposit made, pur-

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suant to such order, shall be of the same effect as if made with such officer.

SEC. 361. If the judgment appealed from direct the assignment or de-livery of documents or personal property, the execution of the judgment documents or shall not be stayed by appeal, unless the things required to be assigned or personal property it must delivered be brought into Court, or placed in the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer be deposited by appeal and the custody of such officer by appeal and the custody of such officers by appeal and the custod or receiver as the Court shall appoint, or unless an undertaking be en- or security be tered into on the part of the appellant, by at least two sureties, and in such amount as the Court, or a Judge thereof, shall direct, to the effect that the appellant will obey the order of the Appellate Court upon the appeal.

SEC. 362. If the judgment appealed from direct the execution of a conveyance or other instrument, the execution of the judgment shall not must be execution be stayed by the appeal until the instrument shall have been executed cuted and deand deposited with the Clerk with whom the judgment is entered, to posited. abide the judgment of the Appellate Court.

SEC. 363. If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the same shall not be stayed, a case where unless a written undertaking be executed on the part of the appellant, to deliver rewith two sureties, to the effect that, during the possession of such property or for a sale by the appellant, he will not commit, or suffer to be committed, any waste of mortgaged thereon, and that, if the judgment be affirmed, he will pay the value of premises. the use and occupation of the property, from the time of the appeal until the delivery of possession thereof, pursuant to the judgment, not exceeding a sum to be fixed by a Judge of the Court by which judgment was rendered, and which shall be specified in the undertaking. When the judgment is for the sale of mortgaged premises, and the payment of a deficiency arising upon the sale, the undertaking shall also provide for the payment of such deficiency.

Security in

three hundred and sixty, three hundred and sixty-one, three hundred and ceedings upsixty-two, and three hundred and sixty-three it atom. sixty-two, and three hundred and sixty-three, it stays all further proceed-being given. ings in the Court below upon the judgment appealed from, or upon the matter embraced therein; but the Court below may proceed upon any other matter included in the action, and not affected by the judgment appealed from. And the Court below may, in its discretion, dispense with or limit the security required by Sections three hundred and sixty, three hundred and sixty-one and three hundred and sixty-three, when the appellant is an executor, administrator, trustee, or other person acting in another's right; and may also limit such security to an amount not less than fifty thousand dollars, in the cases mentioned in Sections three hundred and sixty-one, three hundred and sixty-two, three hundred and sixtythree, where it would otherwise, according to those Sections, exceed that sum.

SEC. 365. The undertakings prescribed by Sections three hundred and Undertakings fifty-nine, three hundred and sixty, three hundred and sixty-one, and may be in one instrumentor three hundred and sixty-three, may be in one instrument or several, at several. the option of the appellant; and a copy, including the names and residence of the sureties, must be served on the adverse party, with a notice of appeal, unless a deposit is made as provided in Section three hundred and fifty-nine, and notice thereof given.

SEC. 366. An undertaking upon an appeal shall be of no effect, unless

it be accompanied by the affidavit of the sureties that they are each worth double the amount specified therein. The respondent may, how-Security to ever, except to the sufficiency of the sureties, within ten days after the no-and to justify. tice of the appeal; and unless they or other sureties justify before a Judge of the Court below, as prescribed by Sections two hundred and eighteen and two hundred and nineteen, within ten days thereafter, the appeal shall be regarded as if no undertaking had been given. The justification shall be upon a notice of not less than five days.

SEC. 367. In the cases not provided for in Sections three hundred and Perishable sixty, three hundred and sixty-one, three hundred and sixty-two, three property may hundred and sixty-three, and three hundred and sixty-four, the perfectwithstanding ing of an appeal, by giving the undertaking mentioned in Section three hundred and fifty-nine, shall stay proceedings in the Court below upon the judgment appealed from, except that, where it directs the sale of perishable property, the Court below may order the property to be sold, and the proceeds thereof to be deposited or invested in this State or United States bonds, to abide the judgment of the Appellate Court.

SEC. 368. The undertaking must be filed with the Clerk with whom the undertaking judgment or order appealed from was entered. The provisions of this chapter as to the security to be given upon appeals, and as to the stay of proceedings, shall apply to appeals taken under sub-division three of Section eleven.

CHAPTER III.

APPEAL TO THE CIRCUIT COURT FROM AN INFERIOR COURT.

Sec. 369. By what Courts judgments to be reviewed. New trial.

370. Appeal, when to be taken.

371. Notice of appeal to be served on Justice, and costs of return to be paid.

372. Security to stay execution.

373. Form of undertaking. 374. Execution, how stayed.

375. In case of death of Justice, undertaking to be filed.

376. Filing in lieu of service of notice of appeal. 377. Return, when and how made and compelled.

378. How made if Justice be out of office.

379. Further return.

380. Justice dead, insane or absent.

381. Hearing upon return.

382. Appeal to be heard on the original papers.

383. Judgment on appeal. New trial.

384. Judgment roll.

385. Costs, how awarded.

386. Restitution.

387. Setting off costs and recovery.

388. The costs on appeal.

SEC. 369. When a judgment is rendered by a Trial Justice's Court,

by the County Commissioners, or any other inferior Court or jurisdiction, save the Probate Court heretofore provided for in this Act, the appeal shall be to the Circuit Court of the County wherein the judgment was be reviewed, rendered. On such appeal, when the amount of the claim or claims for by what Court which judgment was demanded by either party in his pleadings in the Court below shall exceed ten dollars, or when, in an action to recover the possession of personal property, the value of the property as assessed and the damages recovered shall exceed ten dollars, exclusive of costs, a new trial shall be had in the Circuit Court in the following appellate cases:

1. When the judgment was rendered upon an issue of law joined

between the parties.

2. When it was rendered upon an issue of fact joined between parties, whether the defendant was present at the trial or not: Provided, however, That the appellant may, in case where the amount for which judgment is demanded by either party in his pleadings exceed ten dollars, or where, in an action to recover the possession of personal property, the value of the property as assessed and the damages recovered shall exceed ten dollars, exclusive of costs, state in the notice of appeal that such appeal is taken upon questions of law only, in which case a new trial shall not be had in the Appellate Court, but the appeal shall be heard and determined in the same manner as if such amount, or said value and damages were ten dollars or under.

SEC. 370. The appellant shall, within five days after judgment, serve a notice of appeal, stating the grounds upon which the appeal is founded. If the judgment is rendered upon process not personally served, and the defendant did not appear, he shall have five days, after personal notice of the judgment, to serve the notice of appeal provided for in this and the

next Section.

SEC 371. The notice of appeal must, within the same time, be served on the Trial Justice personally, if living and within the County, or on his read to be ser-Clerk, if there be one, and on the respondent personally, or by leaving it Justice, and at his residence, with some person of suitable age and discretion; or in costs, i.c., to at his residence, with some person of suitable age and discretion; or, in be paid. case the respondent is not a resident of such County, or cannot, after due diligence, be found therein, in the same manner, on the attorney or agent, if any, who is a resident of such County, who appeared for the respondent on the trial; and if neither the respondent, nor such agent or attorney can be found in the County, the notice may be served on the respondent by leaving it with the Clerk of the Appellate Court; and the appellant must, at the time of the service of the notice of appeal on the Trial Justice or on his Clerk, as herein provided, pay to such Trial Justice or Clerk the costs of the action included in the judgment, together with two dollars, costs of the return, which shall be included in the judgments for costs on reversal. The appellant shall also execute, on the appeal, a written undertaking on his part, with one or more sufficient sureties, to the effect that the appellant will pay all costs, disbursements and extra costs, awarded against him in the Court below, if such judgment shall be affirmed by the Appellate Court, on such appeal, together with all costs and damages which may be awarded against him thereon; such sureties to justify in double the amount specified in the undertaking; such undertaking and the sufficiency of the sureties to be approved by the Trial Justice of the Court below, or the appellant may deposit, with the Clerk of the Court of Common Pleas, the costs, disbursements, and extra costs in-

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Judgment to

Notice of ap-

Appeal, when



cluded in the judgment in the Court below, and the sum of fifteen dollars, to meet any costs that may be awarded against him on such appeal; the undertaking, when executed and approved, to be filed with the Clerk of the Circuit Court; the amount so deposited shall be repaid by the said Clerk to the appellant, if he succeed on the appeal: and in case the judgment be affirmed, the said Clerk shall, after the execution is issued, pay over the amount, so deposited, to the respondent, which shall be credited on the execution issued on the judgment of affirmance, to the extent thereof, and the balance, if any, on the execution issued on the judgment appealed from.

Security to execution.

SEC. 372. When, by the terms of Section three hundred and sixty-nine, the appellant is entitled to a new trial in the Appellate Court, he shall, at the time of making the appeal, and in all other cases, if he desires a stay of execution of the judgment, give security as provided in the next Section.

Form of undertaking.

SEC. 373. The security shall be a written undertaking, executed by one or more sufficient sureties, approved by the Court below, to the effect that if judgment be rendered against the appellant, and execution thereon be returned unsatisfied, in whole or in part, the sureties will pay the amount unsatisfied.

Execution, how stayed.

SEC. 374. The delivery of the undertaking to the Court below shall stay the issuing of execution; or, if it have been issued, the service of a copy of the undertaking, certified by the Court below, upon the officer

holding the execution, shall stay further proceedings thereon.

SEC. 375. Where, by reason of the death of a Trial Justice, or his re-In case of moval from the County, or any other cause, the undertaking on the appeal tice, undertaking cannot be delivered to him, it shall be filed with the Clerk of the Appelbe late Court, and notice thereof given to the respondent, or his attorney or agent, as provided in Section three hundred and fifty-four, it shall thereupon have the same effect as if delivered to the Trial Justice.

Sec. 376. When, by reason of the death of a Trial Justice, or his ab-Filing in lieu sence from the County, or any other cause, the notice of appeal cannot of service of appeal as provided by Section three hundred and seventy, it may be

served by leaving the same with the Clerk of the County.

to

Sec. 377. The Court below shall thereupon, after ten days, and within Return, when thirty days after service of the notice of appeal, make a return to the and compell- Appellate Court of the testimony, proceedings and judgment, and file the The return may be compelled by attachsame in the Appellate Court. But no Justice of the Peace shall be bound to make a return unless the fees prescribed by the last Section of this chapter be paid on the service of the notice of appeal: Provided, however, That in cases where the amount for which judgment is demanded by either party in his pleadings in the Court below exceeds ten dollars, or where the value of the property recovered, as appears from the verdict or judgment, shall exceed ten dollars, the testimony need not be returned; but in such case, the Court below shall return the process by which the action was commenced, with the proof of service thereof, and the pleadings or copies thereof, the proceedings and judgment, together with a brief statement of the amount and nature of the claim or claims litigated by the respective parties, and in all cases the notice of appeal shall be annexed to the return; but in cases where the appellant shall, in accordance with the provisions of Section three hundred and sixty-nine of this Act, state in

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the notice of appeal that such appeal is taken upon questions of law only, the Court below shall return to the Appellate Court the testimony,

proceedings, and judgment.

SEC. 378. When a Trial Justice, by whom a judgment appealed from How made if two was rendered, shall have gone out of office before a return is ordered, he be out of office shall, nevertheless, make a return in the same manner, and with the like effect, as if he were still in office.

SEC. 379. If the return be defective, the Appellate Court may direct a turn. further or amended return as often as may be necessary, and may compel a compliance with its order by attachment. And the Court shall always

be deemed open for these purposes.

SEC. 380. If a Trial Justice whose judgment is appealed from shall die, become insane, or remove from the State, the Appellate Court may ex- ceased, insane or absent. amine witnesses on oath, to the facts and circumstances of the trial or judgment, and determine the appeal, as if the facts had been returned by the Trial Justice. If he shall have removed to another County within the State, the Appellate Court may compel him to make the return, as if he were still within the County where the judgment was rendered.

SEC. 381. If a return be made, and the appeal is from a judgment where a new trial may not be had, as provided by this chapter, it may be brought to a hearing, upon notice by either party of not less than appeal if not brought on. eight days. It shall be placed upon the calendar, and continue thereon without further notice until finally disposed of. But if neither party bring it to a hearing before the end of the second term, the Court shall dismiss the appeal, unless it continue the same by special order, for cause If the appeal is from a judgment where a new trial may be had, it may be brought to a hearing or trial at any term of the Court at which a petit jury shall be summoned to attend, at least eight days before the Court, the party desiring to bring on the appeal shall serve a note of issue on the Clerk, and the Clerk shall thereupon enter the cause on the calendar, according to the date of the return.

And the provisions of this chapter for a new trial shall apply as well to appeals heretofore taken and now pending, as those hereafter to be

brought.

SEC. 382. The appeal shall be heard on the original papers, and no

copy thereof need be furnished for the use of the Court.

Sec. 383. Upon hearing the appeal, the Appellate Court shall give Judgmenton judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment the Court may affirm or reverse the judgment of the Court below, in whole or in part, and as to any or all the parties, and for errors of law If the appeal is founded on an error in fact in the proceedings, not affecting the merits of the action, and not within the knowledge of the Trial Justice, the Court may determine the alleged error in fact on affidavits, and may, in its discretion, inquire into and determine the same upon examination of the witnesses. If the defendant failed to appear before the Trial Justice, and it is shown by the affidavits served by the appellant, or otherwise, that manifest injustice has been done, and he satisfactorily excuses his default, the Court may, in its discretion, set aside or suspend judgment, and order a new trial before the same or any other Trial Justice in the same County, at such time and place, and on such

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Justice de-

Hearing upon return. New trials.

To be heard on the original papers.

STATUTES AT LARGE

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terms, as the Court may deem proper. Where a new trial shall be ordered before a Trial Justice, the parties must appear before him according to the order of the Court, and the same proceedings must thereupon be had in the action as on the return of a summons personally served. the appeal shall be from a judgment in which a new trial may be had, as in this chapter provided, the Court shall proceed to the hearing of the cause, if the issue joined before the Trial Justice was an issue of law, or to the trial thereof by jury, if such issue was upon a question of fact.

1. If the issue joined before the Trial Justice was an issue of law, the Court shall render judgment thereon according to the law of the case; and if such judgment be against the pleadings of either party, an amendment of such pleading may be allowed on the same terms, and in like case, as pleadings in actions in the Circuit Court, and the Court may thereupon require the opposite party to answer such amended pleading,

or join issue thereon, as the case may require, summarily.

2. If, upon an appeal in an issue of law, the Court should adjudge the pleading complained of to be valid, it shall, in like manner, require the opposite party summarily to answer such pleading, or join issue thereon, as the case may require.

3. Upon an issue of fact being so joined, the Court shall proceed to hear the same trial by a jury in the same manner as issues joined in the

Circuit Court.

4. Every issue of fact so joined or brought upon an appeal shall be tried in the same manner as in actions commenced in the Circuit Court

- 5. The Court shall have the same power over its own determinations, and the verdict of the jury, and shall render judgment thereon in the same manner as the Circuit Court in actions pending therein, and may allow either party to amend his pleadings upon such terms as shall be just in cases where a new trial may be had, as in this chapter provided; and in any such appeal on which a new trial is to be had, either party may, at any time before the trial, serve upon the opposite party an offer, in writing, to allow judgment to be taken against him for the sum or property, or to the effect in such offer specified, and with or without costs, as said offer shall specify. If the party receiving such offer accept the same, and give notice thereof in writing within ten days, he may file the return and offer, with an affidavit of service of notice of acceptance thereof, and the Clerk shall thereupon enter judgment according to said offer. And if the party making such offer shall have given an undertaking upon the appeal, the parties executing such undertaking shall be liable thereon for the payment of the judgment entered by virtue of said offer. If the notice of acceptance be not given, the offer is to be deemed withdrawn, and cannot be given in evidence. And, if the party to whom such offer is made fail to obtain a judgment more favorable to him than that specified in said offer, then he shall not recover costs, but must pay the other party's costs from the date of the service of the offer.
- 6. Either party may move for a new trial in said Court on a case or exception, or otherwise, and such motion may be made before or after judgment has been entered; and the provisions of this Act in relation to the proceedings on receiving the verdict of a jury, exceptions to the decisions of the Court, making and settling cases and exceptions, motions for new trials, and making up the judgment-roll in the Circuit Court, are

hereby made applicable to all appeals brought up for trial, as in this chap-

ter provided.

SEC. 384. To every judgment upon an appeal there shall be annexed the return on which it was heard, the notice of appeal, with any offer, roll. verdict, decision of the Court, exceptions, case, and all orders and papers in any way involving the merits and necessarily affecting the judgment, which shall be filed with the Clerk of the Court, and shall constitute the judgment-roll.

SEC. 385. If the judgment be affirmed, costs shall be awarded to the respondent. If it be reversed, costs shall be awarded to the appellant. If it be affirmed in part, the costs, or such part as to the Court shall seem

just, may be awarded to either party.

Sec. 386. If the judgment below, or any part thereof, be paid or collected, and the judgment be afterwards reversed, the Appellate Court shall order the amount paid or collected to be restored, with interest from the time of such payment or collection. The order may be obtained on proof of the facts made at or after the hearing, upon a previous notice of six days; and if the order shall be made before the judgment is entered, the amount may be included in the judgment.

SEC. 387. If, upon an appeal, a recovery be had by one party, and costs be awarded to the other, the Appellate Court shall set off the one against covery.

the other, and render judgment for the balance.

SEC. 388. Costs shall be allowed to the prevailing party, in judgments appeal. rendered on appeal, in all cases, with the following exceptions and limitations: In the notice of appeal, the appellant shall state in what particular or particulars he claims the judgment should have been more favorable to If he claims that the amount of judgment is less favorable to him than it should have been, he shall state what should have been its amount. Within fifteen days after the service of the notice of appeal, the respondent may serve upon the appellant and Trial Justice an offer, in writing, to allow the judgment to be corrected in any of the particulars mentioned in the notice of appeal. The appellant may thereupon, and within five days thereafter, file with the Trial Justice a written acceptance of such offer, who shall thereupon make a minute thereof in his docket, and correct such judgment accordingly, and the same, so corrected, shall stand as his judgment, and be enforced accordingly; and any execution which has been issued upon the judgment appealed from shall be amended by the Trial Justice to correspond with the amended judgment; and no undertaking given to stay execution shall be enforced for more than the amount of the corrected judgment. If such offer be not made, and the judgment in the Appellate Court be more favorable to the appellant than the judgment in the Court below, or if such offer be made and not accepted, and the judgment in the Appellate Court be more favorable to the appellant than the offer of the respondent, the appellant shall recover costs: Provided, however, That the appellant shall not recover costs unless the judgment appealed from shall be reversed on such appeal, or be made more favorable to him, to the amount of at least ten dollars. If the offer be made, and accepted by the appellant, the appellant shall recover all his disbursements on appeal, and all his costs in the Court below. But the appellant shall not recover costs, except as provided in this chapter. The respondent shall be entitled to recover costs where the appellant is not. Whenever costs are awarded to the appellant, he shall be allowed to tax as

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Judgment-

Costs, how awarded.

Restitution.

Setting off costs and re-

The costs on

part thereof the costs and fees paid to the Trial Justice, on making the appeal, as disbursements, in addition to the costs in the Appellate Court; and when the judgment in the suit before the Court below was against such appellant, he shall further be allowed to tax the costs incurred by him which he would have been entitled to recover in case the judgment below has been rendered in his favor. If, upon an appeal, a recovery for any debt or damages be had by one party, and costs be awarded to the other party, the Court shall set off such costs against such debt or damages, and render judgment for the balance. The following fees and costs, and no other, except fees of officers, disbursements and witnesses' fees, shall be allowed, on appeal, to the party entitled to costs, as herein provided, when the new trial is in the Circuit Court: For proceedings before notice of trial, five dollars; for all subsequent proceedings before trial, three dollars; for trial of an issue of law, five dollars; for every trial of an issue of fact, seven dollars; for argument of a motion for a new trial on a case or a bill of exceptions, five dollars; in all cases, to either party, for every term, not exceeding five, at which the appeal is necessarily on the calendar, and is not tried or is not postponed by the Court, five dol-In other appeals the costs shall be as follows: To the appellant, on reversal, seven dollars; to the respondent, on the affirmance, seven dol-If the judgment appealed from be reversed in part and affirmed as to the residue, the amount of costs allowed to either party shall be such sum as the Appellate Court may award, not exceeding five dollars. the appeal be dismissed for want of prosecution, as provided by Section three hundred and eighty-one, no costs shall be allowed to either party. In every appeal, the Court below, before whom the judgment appealed from was rendered, shall receive one dollar for his return. If the judgment be reversed for an error of fact in the proceedings, not affecting the merits, costs shall be in the discretion of the Court. If, in the notice of appeal, the appellant shall not state in what particular or particulars he claims the judgment should have been more favorable to him, he shall not be entitled to costs unless the judgment appealed from shall be wholly reversed.

TITLE XII.

OF THE MISCELLANEOUS PROCEEDINGS IN CIVIL ACTIONS, AND GENE-RAL PROVISIONS.

CHAPTER I. Submitting a controversy without action.

II. Proceedings against joint debtors, heirs, legatees, devisees, and tenants holding under a judgment debtor.

III. Confession of a judgment without action.

IV. Offers of the defendant to compromise the whole or a part of the action.

V. Admission or inspection of writings.

VI. Examination of parties.

VII. Examination of witnesses.

VIII. Motions and orders.

IX. Entitling affidavits.



CHAPTER X. Computation of time.

XI. Notices, and filing and service of papers.

XII. Duties of Sheriffs and Coroners.

XIII. Accountability of Guardians.

XIV. Powers of Referees.

XV. Miscellaneous provisions.

CHAPTER I.

SUBMITTING A CONTROVERSY WITHOUT ACTION.

Sec. 389. Controversy, how submitted without action.

390. Judgment, how enforced.

391. Judgment, how enforced or appealed from.

SEC. 389. Parties to a question in difference, which might be the sub- Controversy, ject of a civil action, may, without action, agree upon a case containing how submitted without the facts upon which the controversy depends, and present a submission action." of the same to any Court which would have jurisdiction if an action had been brought. But it must appear by affidavit that the controversy is real, and the proceeding in good faith, to determine the rights of the The Court shall thereupon hear and determine the case, and render judgment thereon, as if an action were depending.

SEC. 390. Judgment shall be entered in the judgment-book, as in other cases, but without costs for any proceeding prior to notice of trial. The case, the submission, and a copy of the judgment, shall constitute the judgment-roll.

SEC. 391. The judgment may be enforced in the same manner as if it SEC. 391. The judgment may be enforced in the same manner as if it Judgment, had been rendered in an action, and shall be subject to appeal in like how enforced or appealed manner.

Judgment.

CHAPTER II.

PROCEEDINGS AGAINST JOINT DEBTORS, HEIRS, DEVISEES, LEGATEES, AND TENANTS HOLDING UNDER A JUDGMENT DEBTOR.

Sec. 392. Parties, not summoned in action on joint contract, may be summoned after judgment.

393. If judgment debtor die, his representative may be summoned.

394. Form of summons.

395. Summons to be accompanied by affidavit of amount due.

396. Party summoned may answer and defend.

397. Subsequent pleadings and proceedings the same as in an action.

398. Answer and reply to be verified as in an action.

SEC. 392. When a judgment shall be recovered against one or more of may be sumseveral persons jointly indebted upon a contract, by proceeding as projudgment. 65

Parties not summoned in action on a joint contract



vided in Section one hundred and fifty-nine, those who were not originally summoned to answer the complaint may be summoned to show cause why they should not be bound by the judgment, in the same manner as if they had been originally summoned.

be summoned

SEC. 393. In case of the death of a judgment debtor after judgment, If a judg- the heirs, devisees or legatees of the judgment debtor, or the tenants of die, his repre- real property owned by him and affected by the judgment, may, at any sontatives to time within three years from the time of granting letters teste most any or of time within three years from the time of granting letters testamentary or of administration upon the estate of the testator or intestate, be summoned to show cause why the judgment should not be enforced against the estate of the judgment debtor in their hands respectively; and the personal representatives of a deceased judgment debtor may be summoned at any time within one year after their appointment.

mons.

Sec. 394. The summons provided in the last two Sections shall be sub-Form of sum- scribed by the judgment creditor, his representative or attorney, shall describe the judgment, and require the person summoned to show cause within twenty days after the service of the summons; and shall be served in like manner as the original summons.

To be accom-

Sec. 395. The summons shall be accompanied by an affidavit of the person subscribing it, that the judgment has not been satisfied, to his panied by aniperson subscribing it, that the judgment has not been satisfied, to his
dayt of the knowledge or information and belief, and shall specify the amount due
amount due. thereon thereon.

Sec. 396. Upon such summons any party summoned may answer within Party sum- the time specified therein, denying the judgment, or setting up any defence swer and de-thereto which may have arisen subsequently to such judgment; and in addition thereto, if the party be proceeded against according to Section three hundred and ninety-two, he may make any defence which he might have made to the action if the summons had been served on him at the time when the same was originally commenced and such defence had been then interposed to such action.

tion.

SEC. 397. The party issuing the summons may demur or reply to the subsequent answer, and the party summoned may demur to the reply; and the issues pleadings and may be tried and judgment may be given in the same manner as in an same as mac- action, and enforced by execution; or the application of the property charged to the payment of the judgment may be compelled by attachment, if necessary.

Answer and reply to be verified as in an action.

SEC. 398. The answer and reply shall be verified in the like cases and manner, and be subject to the same rules, as the answer and reply in an action.

CHAPTER III.

CONFESSION OF JUDGMENT WITHOUT ACTION.

SEC. 399. Judgment may be confessed for debt due or for contingent liability.

400. Statement in writing, and form thereof.

401. Judgment and execution.

SEC. 399. A judgment by confession may be entered, without action, by confession. either for money due, or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this chapter.

SEC. 400. A statement in writing must be made, signed by the defendant, and verified by his oath, to the following effect:

Statement in writing and form thereof.

Judgment & Execution.

1. It must state the amount for which judgment may be entered, and authorize the entry of judgment therefor.

2. If it be for money due or to become due, it must state concisely the facts out of which it arose, and must show that the sum confessed therefor is justly due or to become due.

3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability, and must show that the sum confessed therefor does not exceed the

same.

SEC. 401. The statement may be filed with a County Clerk, who shall endorse upon it, and enter in the Judgment Book a judgment for the amount confessed, with five dollars costs, together with disbursements. The statement and affidavit, with the judgment endorsed, shall thereupon become the judgment roll. Executions may be issued and enforced thereon, in the same manner as upon judgments in other cases in such Courts. When the debt for which the judgment is recovered is not all due, or is payable in installments, and the installments are not all due, the execution may issue upon such judgment for the collection of such installments as have become due, and shall be in the usual form, but shall have endorsed thereon, by the attorney or person issuing the same, a direction to the Sheriff to collect the amount due on such judgment, with interest and costs, which amount shall be stated, with interest thereon, and the costs of said judgment. Notwithstanding the issue and collection of such execution, the judgment shall remain as security for the installments thereafter to become due; and whenever any further installments become due execution may, in like manner, be issued for the collection and enforcement of the same.

CHAPTER IV.

OFFER OF THE DEFENDANT TO COMPROMISE THE WHOLE OR A PART OF THE ACTION.

Sec. 402. Offer of compromise.

403. Defendant may offer to liquidate damages.

404. Effect of acceptance or refusal of offer.

SEC. 402. The defendant may, at any time before the trial or verdict, serve upon the plaintiff an offer in writing to allow judgment to be taken promise. against him for the sum or property, or to the effect therein specified, with costs. If the plaintiff accept the offer, and give notice thereof in writing within ten days, he may file the summons, complaint and offer, with an affidavit of notice of acceptance, and the Clerk must thereupon enter judgment accordingly. If the notice of acceptance be not given, the offer is to be deemed withdrawn, and cannot be given in evidence; and if the plaintiff fail to obtain a more favorable judgment, he cannot re-

Offer of com-



cover costs, but must pay the defendant's costs from the time of the offer; and in case the defendant shall set up a counter claim in his answer to an amount greater than the plaintiff's claim, or sufficient to reduce the plaintiff's recovery below fifty dollars, then the plaintiff may serve upon the defendant an offer in writing to allow judgment to be taken against him for the amount specified, or to allow said counter claim to the amount specified, with costs. If the defendant accept the offer, and give notice thereof in writing within ten days, he may enter judgment as above for the amount specified, if the offer entitled him to judgment, or the amount specified in said offer shall be allowed him in the trial of the action. the notice of acceptance be not given, the offer is to be deemed withdrawn, and cannot be given in evidence; and if the defendant fail to recover a more favorable judgment, or to establish his counter claim for a greater amount than is specified in said offer, he cannot recover costs, but must pay the plaintiff's costs from the time of the offer.

Defendant tionally.

Sec. 403. In an action arising on contract, the defendant may, with may offer toll- his answer, serve upon the plaintiff an offer in writing, that if he fail in quidate damages condi. his defence, the damages be assessed at a specified sum; and if the plaintiff signify his acceptance thereof in writing, with or before the notice of trial, and on the trial have a verdict, the damages shall be assessed accordingly.

Effect of acceptance or refusal of offer.

SEC. 404. If the plaintiff do not accept the offer, he shall prove his damages as if it had not been made, and shall not be permitted to give it in evidence. And if the damages assessed in his favor shall not exceed the sum mentioned in the offer, the defendant shall recover his expenses incurred in consequence of any necessary preparation or defence in respect to the question of damages. Such expense shall be ascertained at the trial.

CHAPTER V.

ADMISSION OR INSPECTION OF WRITINGS.

Inspection

SEC. 405. Either party may exhibit to the other, or to his atand copy of torney, at any time before the trial, any paper material to the books, papers, torney, and request an admission in writing of its genuineness. If the adverse party, or his attorney, fail to give the admission, within four days after the request, and if the party exhibiting the paper be afterwards put to expense in order to prove its genuineness, and the same be finally proved or admitted on the trial, such expense, to be ascertained at the trial, shall be paid by the party refusing the admission, unless it appear to the satisfaction of the Court that there were good reasons for the refusal. The Court before which an action is pending, or a Judge or Justice thereof, may, in their discretion, and upon due notice, order either party to give to the other, within a specified time, an inspection and copy, or permission to take a copy, of any books, papers and documents in his possession or under his control, containing evidence relating to the merits of the action or the defence therein. If compliance with the order be refused, the Court, on motion, may exclude the paper from being given in evidence, or punish the party refusing, or both.

EXAMINATION OF PARTIES.

SEC. 406. Action for discovery abolished.

407. A party may examine his adversary as a witness.

408. Such examination also allowed before trial. Proceeding therefor.

409. Party, how compelled to attend.

410. Testimony of party may be rebutted.

411. Effect of refusal to testify.

- 412. Testimony of a party not responsive to the inquiries may be rebutted by the oath of the party calling him.
- 413. Persons for whom action is brought or defended may be examined.
- 414. Examination of co-plaintiff or co-defendant.

SEC. 406. No action to obtain discovery under oath, in aid of the prosecution or defence of another action, shall be allowed, nor shall any exder oath abolder oa amination of a party be had, on behalf of the adverse party, except in ished. the manner prescribed by this chapter.

Sec. 407. A party to an action may be examined as a witness, at the Aparty may instance of the adverse party, or of any one of several adverse parties, examine adversary and for that purpose may be compelled, in the same manner, and subject a witness. to the same rules of examination as any other witness, to testify, either at the trial, or conditionally, or upon commission.

SEC. 408. The examination, instead of being had at the trial, as provided in the last Section, may be had at any time before the trial, at the lowed before option of the party claiming it, before a Judge of the Court, on a pre-trial: proceedvious notice to the party to be examined, and any other adverse party, of at least five days, unless, for good cause shown, the Judge order otherwise. But the party to be examined shall not be compelled to attend in any other County than that of his residence, or where he may be served with a summons for his attendance.

ings therefor.

SEC. 409. The party to be examined, as in the last Section provided, SEC. 409. The party to be examined, as in the last Section provided, Party, how may be compelled to attend in the same manner as a witness who is to compelled to attend. be examined conditionally; and the examination shall be taken and filed by the Judge in like manner, and may be read by either party on the trial.

SEC. 410. The examination of the party, thus taken, may be rebutted Testimony of by adverse testimony.

SEC. 411. If a party refuse to attend and testify, as in the last four Sections provided, he may be punished as for a contempt, and his complaint, fy.

Effect of re-fusal to testi-

party may be rebutted.

answer or reply may be stricken out.

SEC. 412. A party examined by an adverse party, as in this chapter by a party not provided, may be examined on his own behalf, subject to the same rules responsive to of examination as other witnesses. But if he testify to any new matter, the inquiries not responsive to the inquiries put to him by the adverse party, or necessary to explain or qualify his answers thereto, or discharge when his another testify to any new matter, the inquiries put to him by the adverse party, or necessary to explain or qualify his answers thereto, or discharge when his another calling him. swers would charge himself, such adverse party may offer himself as a witness on his own behalf in respect to such new matter, subject to the same rules of examination as other witnesses, and shall be so received.

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defended may be examined.

Sec. 413. A person for whose immediate benefit the action is prosecuted or defended, though not a party to the action, may be examined as Persons for a witness, in the same manner, and subject to the same rules of examinais brought or tion, as if he were named as a party.

Sec. 414. A party may be examined on behalf of his co-plaintiff, or of Examination a co-defendant, as to any matter in which he is not jointly interested or of co-plaintiff liable with such co-plaintiff or co-defendant, and as to which a separate on co-defend and not joint verdict or judgment can be reudered. And he may be comand not joint verdict or judgment can be rendered. And he may be compelled to attend in the same manner as at the instance of an adverse party; but the examination thus taken shall not be used in the behalf of the party examined. And whenever, in the case mentioned in Sections four hundred and seven and four hundred and eight, one of the several plaintiffs or defendants who are joint contractors, or are united in interest, is examined by the adverse party, the other of such plaintiffs or defendants may offer himself as a witness to the same cause or action or defence, and shall be so received.

CHAPTER VII.

EXAMINATION OF WITNESSES.

Sec. 414. Interest not to exclude a witness.

415. Parties to actions and special proceedings may be witnesses on their own behalf, except in certain cases.

Interest not witness.

Parties to accial proceed-ings may be examined as their own be-half, except in certain cases.

SEC. 414. No person offered as a witness shall be excluded by reason of to exclude a his interest in the event of the action.

SEC. 415. A party to an action or special proceeding in any and all tions and spe- Courts, and before any and all officers and persons acting judicially, may be examined as a witness on his own behalf, or in behalf of any other party, conditionally, on commission and upon the trial or hearing in the case, in the same manner and subject to the same rules of examination as any other witness: Provided, however, That no party to the action or proceeding, nor any person who has a legal or equitable interest which may be affected by the event of the action or proceeding, nor any person who, previous to such examination, has had such an interest, however the same may have been transferred to or come to the party to the action or proceeding, nor any assignor of anything in controversy in the action, shall be examined in regard to any transaction or communication between such witness and a person, at the time of such examination, deceased, insane or lunatic, as a witness against a party then prosecuting or defending the action as executor, administrator, heir-at-law, next-of-kin, assignee, legatee, devisee, or survivor of such deceased person, or as assignee or committee of such insane person or lunatic, when such examination or any judgment or determination in such action or proceeding, can in any manner affect the interest of such witness or the interest previously owned or represented by him. But when such executor, administrator, heir-at-law, nextof-kin, assignee, legatee, devisee, survivor or committee shall be examined on his own behalf in regard to such transaction or communication, or the testimony of such deceased or insane person or lunatic in regard to

such transaction or communication, (however the same may have been perpetuated or made competent,) shall be given in evidence on the trial or hearing in behalf of such executor, administrator, heir-at-law, next-ofkin, assignee, legatee, devisee, survivor or committee, then all other persons not otherwise rendered incompetent shall be made competent witnesses in relation to such transaction or communication on said trial or Nothing contained in Section eight of this Act shall be held or construed to affect or restrain the operation of this Section.

1. In any trial or inquiry in any suit, action or proceeding in any Court, wife compellor before any person having, by law or consent of parties, authority to execute to testify. amine witnesses or hear evidence, the husband or wife of any party thereto, or of any person in whose behalf any such suit, action or proceeding is brought, prosecuted, opposed or defended shall, except as hereinafter stated, be competent and compellable to give evidence, the same as any other witness, on behalf of any party to such suit, action or proceeding.

2. Nothing herein contained shall render any husband or wife competent or compellable to give evidence for or against the other in any criminal action or proceeding, (except to prove the fact of marriage in case of bigamy,) or in any action or proceeding instituted in consequence of adultery, or in any action or proceeding for divorce on account of adultery, (except to prove the fact of marriage,) or in any action or proceeding for or on account of criminal conversation.

3. No husband or wife shall be compellable to disclose any confidential communication made by one to the other during their marriage.

CHAPTER VIII.

MOTIONS AND ORDERS.

SEC. 416. Definition of an order.

417. Definition of a motion. Motions, how and when made. Stay of proceedings. Compelling parties to testify on motions. Decision on motion.

418. Notice of motion.

419. In absence, &c., of Judge at chambers, motion may be transferred to another Judge.

420. Enlarging time for the procedings in an action.

SEC. 416. Every direction of a Court or Judge, made or entered in Definition of an order. writing, and not included in a judgment, is denominated an order.

SEC. 417. (1.) An application for an order is a motion.

(2.) Motions may be made to a Judge or Justice out of Court, except how and when made. Definition of a mofor a new trial on the merits.

(3.) Orders made out of Court, without notice, may be made by the Judge of the Court, in any part of the State.

(4.) Motions upon notice must be made within the Circuit in which the action is triable, or, in the absence or inability of the Judge of the Circuit, may be made before the Judge of a Circuit adjoining that in which it is triable.

(5.) A motion to modify or vacate a provisional remedy, and an appeal

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Of motion,

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from an order allowing a provisional remedy, shall have preference over all other motions.

Stay of proceedings.

(6.) No order to stay proceedings for a longer time than twenty days shall be granted by a Judge out of Court, except upon previous notice to the adverse party.

Compelling parties to tes-

(7.) When any party intends to make or oppose a motion in any Court of record, and it shall be necessary for him to have the affidavit of any person who shall have refused to make the same, such Court may, by order, appoint a referee to take the affidavit or deposition of such person. Such person may be subprensed and compelled to attend and make an affidavit before such referee, the same as before a referee to whom it is referred to try an issue. And the fees of such referee for such service shall be three dollars per day.

Decision on motion.

(8.) Whenever a motion shall be made in any cause or proceeding in any of the Courts in this State, to obtain an injunction order, order of arrest, or warrant of attachment, granted in any such case or proceeding, it shall be the duty of the Judge, Trial Justice, or other officer, before whom such motion is made, to render and make known his decision on such motion within twenty days after the day upon which such motion shall or may be submitted to him for his decision.

SEC. 418 When a notice of a motion is necessary, it must be served

Notice of a motion.

four days before the time appointed for the hearing; but the Court or Judge may, by an order to show cause, prescribe a shorter time.

In absence, &c., of Judge at Chambers, motion may be transferred by him to another Judge.

SEC. 419. When notice of a motion is given, or an order to show cause is returnable before a Judge out of Court, and at the time fixed for the motion he is absent or unable to hear it, the same may be transferred, by his order, to some other Judge, before whom the motion, in case of his absence or inability, might originally have been made.

action.

SEC. 420. The time within which any proceeding in an action must be Enlarging had, after its commencement, except the time within which an appeal ceedings in an must be taken, may be enlarged, upon an affidavit showing grounds therefor, by a Judge of the Circuit Court. The affidavit, or a copy thereof, must be served with a copy of the order, or the order may be disregarded.

CHAPTER IX.

ENTITLING AFFIDAVITS.

Affidavits defectively enti-tled, valid.

SEC. 421. It shall not be necessary to entitle an affidavit in the action, but an affidavit made without a title, or with a defective title, shall be as valid and effectual, for every purpose, as if it were duly entitled, if it intelligibly refer to the action or proceeding in which it is made.

CHAPTER X.

COMPUTATION OF TIME.

Time, how computed.

Sec. 422. The time within which an act is to be done, as herein pro-



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vided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

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CHAPTER XI.

NOTICES AND FILING AND SERVICE OF PAPERS.

Sec. 423. Notices, &c., how served.

424. Service, how made.

425. Service by mail.

426. The like.

427. Double time where service by mail.

428. Notice of motion, &c., where personally served. 429. When papers need not be served on defendant.

430. Service of papers where parties reside out of the State.

431. Summons and pleadings to be filed.

432. Service on attorney.

433. When this chapter does not apply.

SEC. 423. Notices shall be in writing; and notices and other papers Notices, &c how served. may be served on the party or attorney, in the manner prescribed in the

next three Sections, where not otherwise provided by this Act.

SEC. 424. The service may be personal, or by delivery to the party or made. attorney on whom the service is required to be made; or it may be as follows:

1. If upon an attorney, it may be made, during his absence from his office, by leaving it with the clerk therein, or with a person having charge thereof; or, when there is no person in the office, by leaving it, between the hours of six in the morning and nine in the evening, in a conspicuous place in the office; or, if it be not open so as to admit of such service, then by leaving it at the attorney's residence, with some person of suitable age and discretion.

2. If upon a party, it may be made by leaving the paper at his residence between the hours of six in the morning and nine in the evening,

with some person of suitable age and discretion.

SEC. 425. Service by mail may be made where the person making the service and the person on whom it is to be made reside in different places, between which there is a regular communication by mail.

SEC. 426. In case of service by mail, the paper must be deposited in the post office, addressed to the person on whom it is to be served, at his

place of residence, and the postage paid.

SEC. 427. When the service is by mail, it shall be double the time required in cases of personal service, except service of notice of trial, which by mail. may be made sixteen days before the day of trial, including the day of service.

SEC. 428. Notice of a motion or other proceeding before a Court or of notice of motion, &c., Judge, when personally served, shall be given at least four days before the time appointed therefor.

SEC. 429. When a defendant shall not have demurred or answered, serned not be served on device of notice or papers in the ordinary proceedings in an action, need fendant.

Service by

Notices, &c,

Service, how

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not be made upon him, unless he be imprisoned for want of a bail, but shall be made upon him or his attorney, if notice of appearance in the action has been given.

Sec. 430. Where a plaintiff or a defendant who has demurred or anservice of swered, or gives notice of appearance, resides out of the State, and has papers where no attorney in the action, the service may be made by mail, if his residence be known; if not known, on the Clerk, for the party.

Pleadings to be filed.

SEC. 431. The summons and the several pleadings in an action shall Summons & be filed with the Clerk within ten days after the service thereof, respectively; or the adverse party, on proof of the omission, shall be entitled, without notice, to an order from a Judge that the same be filed within a time to be specified in the order, or be deemed abandoned.

Service on attorney.

SEC. 432. Where a party shall have an attorney in the action, the service of papers shall be made upon the attorney, instead of the party.

not apply.

SEC. 433. The provisions of this chapter shall not apply to the service When this chapter does of a summons or other process, or of any paper to bring a party into contempt.

CHAPTER XII.

DUTIES OF SHERIFFS AND CORONERS.

Duty of sheriff and Coroto serve or execute any summons, order or judgment, or to do any other ner in serving executing act, he shall be bound to do so in like manner as upon process issued to liow enforced. him, and shall be equally liable in all respects for neglect of duty; and if the Sheriff be a party, the Coroner shall be bound to perform the service, as he is now bound to execute process where the Sheriff is a party; and all the provisions of this Act relating to Sheriffs shall apply to Coroners where the Sheriff is a party.

CHAPTER XIII.

ACCOUNTABILITY OF GUARDIANS.

Guardian not

SEC. 435. No guardian appointed for an infant shall be permitted to to receive pro-perty until se- receive property of the infant until he shall have given sufficient security, curity given. approved by a Probate Judge, to account for and apply the same under the direction of the Court.

CHAPTER XIV.

POWERS OF REFEREES.

Power of Referces.

SEC. 436. Every referee appointed pursuant to this Act shall have power to administer oaths in any proceedings before him, and shall have generally the powers now vested in a referee by law.

MISCELLANEOUS PROVISIONS.

SEC. 437. Papers lost or withheld, how supplied.

438. Where undertakings to be filed.

439. Judgment on bond and warrant of attorney, executed before January 1, 1870.

440. Time for publication of notices, how computed.

411. Laws of other States and governments, how proved.

Sec. 437. If an original pleading or paper be lost or withheld by any Papers lost person, the Court may authorize a copy thereof to be filed and used how supplied.

instead of the original.

SEC. 438. The various undertakings required to be given by this Act Where undertakings to must be filed with the Clerk of the Court, unless the Court expressly pro- be filed. vides for a different disposition thereof, except that the undertakings provided for by the chapter on the claim and delivery of personal property, shall, after the justification of the sureties, be delivered by the Sheriffs to the parties respectively for whose benefit they are taken.

SEC. 439. Upon any bond and warrant of attorney, executed and de- Judgmenton bond and warlivered before the first day of January, 1870, judgment may be entered rant of attorin the manner prescribed by Sections three hundred and ninety-nine, new executed before Januafour hundred, four hundred and one, upon the plaintiff's filing such bond ry 1, 1870. and warrant of attorney, and the statement, signed and verified by himself, in the form prescribed by Section three hundred and ninety-nine.

SEC. 440. The time for publication of legal notices shall be computed so as to exclude the first day of publication, and include the day on which notices, how the act or event, of which notice is given, is to happen, or which com- computed.

pletes the full period required for publication.

SEC. 441. Printed copies in volumes of statutes, code or other written cr States and law enacted by any other State or Territory, or foreign Government, governments, purporting or proved to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing law in the Courts and judicial tribunals of such State, Territory or Government, shall be admitted by the Courts and officers of this State, on all occasions, as presumptive evidence of such laws. The unwritten or common law of any other State or Territory, or foreign Government, may be proved as facts by parol evidence; and the books of reports of cases adjudged in their Courts, may also be admitted as presumptive evidence of such law.

how moved.

TITLE XIII.

ACTIONS IN PARTICULAR CASES.

CHAPTER I. Actions against foreign corporations.

II. Actions in place of scire facias, quo warranto, and of informations in the nature of quo warranto.

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STATUTES AT LARGE

CHAPTER I.

ACTIONS AGAINST FOREIGN CORPORATIONS.

Where and by whom action brought.

SEC. 442. An action against a corporation created by or under the laws of any other State, government, or country, may be brought in the Circuit Court:

- 1. By any resident of this State, for any cause of action.
- 2. By a plaintiff not a resident of this State, when the cause of action shall have arisen, or the subject of the action shall be situated, within this State.

CHAPTER IL

ACTIONS IN PLACE OF SCIRE FACIAS, QUO WARRANTO, AND OF INFORMA-TIONS IN THE NATURE OF QUO WARRANTO.

- SEC. 443. Scire facias and quo warranto abolished, and this chapter substituted.
 - 444. Action may be brought, by direction of the Legislature, by the Attorney-General, to vacate a charter.
 - 445. Action to annul a corporation, when and how brought by the Attorney-General, by leave of the Supreme Court.
 - 446. Leave to sue, how obtained.
 - 447. Action upon information or complaint of course.
 - 448. Action, when and how brought to vacate letters patent.
 - 449. Relator, when to be joined as plaintiff.
 - 450. Complaint and arrest of defendant in action for usurping an office.
 - 451. Judgment in such actions.
 - 452. Assumption of office, &c., by relator, when judgment is in his favor.
 - 453. Proceedings against a defendant, on his refusal to deliver books or papers.
 - 454. Damages, how recovered.
 - 455. One action against several persons claiming office and franchise.
 - 456. Penalty for usurping office or franchise, how awarded.
 - 457. Judgment of forfeiture against a corporation.
 - 458. Costs against a corporation, or persons claiming to be such, how collected.
 - 459. Restraining corporation, and appointment of receiver.
 - 460. Copy of judgment roll against corporation, where to be filed.
 - 461. Entry of judgment relating to letters patent.
 - 462. Action for forfeiture of property to the State.



Sec. 443. The writ of scire facias, the writ of quo warranto, and proceedings by information in the nature of quo warranto, are abolished; and the remedies heretofore obtainable in those forms may be obtained and quo warby civil actions under the provisions of this chapter. But any proceeding ranto abolishheretofore commenced, or judgment rendered, or right acquired, shall not chapter subbe affected by such abolition.

SEC. 444. An action may be brought by the Attorney-General, in the name of the State, whenever the Legislature shall so direct, against a Attorney Gencorporation, for the purpose of vacating or annulling the act of incorpora- eral to vacate tion, or an act renewing its corporate existence, on the ground that such direction of act or renewal was procured upon some fraudulent suggestion or concealment of a material fact, by the persons incorporated, or by some of them,

or with their knowledge and consent.

SEC. 445. An action may be brought by the Attorney-General, in the name of the State, on leave granted by the Supreme Court or a Justice nul a corpothereof, or a Circuit Judge, for the purpose of vacanting the existence of a corporation, other than municipal, whenever attorney General, by leave of Supreme

1. Offend against any of the provisions of this Act, or Acts creating, Court.

altering, or renewing such corporation; or,

2. Violate the provisions of any law by which such corporation shall have forfeited its charter by abuse of its powers; or,

3. Whenever it shall have forfeited its privileges or franchises by failure

to exercise its powers; or,

4. Whenever it shall have done or omitted any act which amounts to a surrender of its corporate rights, privileges and franchises; or,

5. Whenever it shall exercise a franchise or privilege not conferred

upon it by law.

And it shall be the duty of the Attorney-General, whenever he shall have reason to believe that any of these acts or omissions can be established by proof, to apply for leave, and upon leave granted to bring the action, in every case of public interest, and also in every other case in which satisfactory security shall be given to indemnify the State against the costs and expenses to be incurred thereby.

SEC. 446. Leave to bring the action may be granted upon the application of the Attorney-General; and the Court or Judge may, at discretion, direct notice of such application to be given to the corporation or to its officers, previous to granting such leave, and may hear the corpora-

tion in opposition thereto.

SEC. 447. An action may be brought by the Attorney-General in the name of the State, upon his own information, or upon the complaint of on information or comany private party, or by a private party interested, on leave granted by plaint. a Circuit Judge, against the parties offending, in the following cases:

1. When any person shall usurp, intrude into, or unlawfully hold or exercise any public office, civil or military, or any franchise within this State, or any office in a corporation created by the authority of this

2. When any public officer, civil or military, shall have done or suffered an act which, by the provisions of law, shall make a forfeiture of

his office; or,

3. When any association or number of persons shall act within this State as a corporation, without being duly incorporated.

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stituted.

Action may

Action to an-

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Action, when and how to be brought to vacate letters

Sec. 448. An action may be brought by the Attorney-General, in the name of the State, for the purpose of vacating or annulling letters patent granted by the people of this State, in the following cases:

1. When he shall have reason to believe that such letters patent were obtained by means of some fraudulent suggestion or concealment of a material fact, made by the person to whom the same were issued or made, or with his consent or knowledge; or,

2. When he shall have reason to believe that such letters patent were

issued through mistake, or in ignorance of a material fact; or,

3. When he shall have reason to believe that the patentee, or those claiming under him, have done or emitted an act, in violation of the terms and conditions on which the letters patent were granted, or have by any other means forfeited the interest acquired under the same.

Relator, when to be joined as plaintiff.

SEC. 449. When an action shall be brought by the Attorney-General, by virtue of this chapter, on the complaint of any private party, or by a person having an interest in the question, the name of such person shall be joined with the State as plaintiff, and in every such case the Attorney-General or Circuit Judge, as the case may be, may require, as a condition precedent to bringing such action, that satisfactory security shall be given to indemnify the State against the costs and expenses to be incurred thereby; and in every case brought by the Attorney-General where such security is given, the measure of compensation to be paid by such person or persons to the Attorney-General shall be left to the agreement, express or implied, of the parties.

Complaint an action for usurping office.

Sec. 450. When such an action shall be brought against a person for and arrest of usurping an office, the Attorney-General, or private party bringing the defendant in same in addition to the statement of the serves of satisfying the statement of the serves of satisfying the satisfying the serves of satisfying the satisfyin same, in addition to the statement of the cause of action, may also set an forth in the complaint the name of the person rightfully entitled to the office, with a statement of his right thereto; and in such case, upon proof by affidavit that the defendant has received fees or emoluments belonging to the office, and by means of his usurpation thereof, an order may be granted by a Judge of the Circuit or Justice of the Supreme Court for the arrest of such defendant, and holding him to bail; and thereupon he shall be arrested and held to bail, in the manner, and with the same effect, and subject to the same rights and liabilities, as in other civil actions where the defendant is subject to arrest.

Judgmentin such actions.

SEC. 451. In every such case, judgment shall be rendered upon the right of the defendant, and also upon the right of the party so alleged to be entitled, or only upon the right of the defendant, as justice shall require.

SEC. 452. If the judgment be rendered upon the right of the person so alleged to be entitled, and the same be in favor of such person, he shall be entitled, after taking the oath of office, and executing such official bond as may be required by law, to take upon himself the execution of the office; and it shall be his duty, immediately thereafter, to demand of the defendant in the action all the books and papers in his custody, or within his power, belonging to the office from which he shall have been excluded.

Proceedings books or pa-

SEC. 453. If the defendant shall refuse or neglect to deliver over such dant, or reful books or papers, pursuant to the demand, he shall be guilty of a misdemeanor, and the following proceedings shall be had, to compel delivery of such books and papers:

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1. Whenever any person shall be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor all the books and papers in his custody, as such officer, or in any way appertaining to his office. Every person violating this provision shall be deemed guilty of a misde-

2. If any person shall refuse or neglect to deliver over to his successor any books or papers, as required in the preceding Section, such successor may make complaint thereof to any Judge of the Circuit Court, or Justice of the Supreme Court, where the person so refusing shall reside, and if such officer be satisfied by the oath of the complainant, and such other testimony as shall be offered, that any such books or papers are withheld, he shall grant an order directing the person so refusing to show cause before him, within some short, reasonable time, why he should not be compelled to deliver the same.

3. At the time so appointed, or at any other time to which the matter may be adjourned, upon due proof being made of the service of the said order, such officer shall proceed to inquire into the circumstances. the person charged with withholding such books or papers shall make affidavit before such officer that he has truly delivered over to his successor all such books and papers in his custody, or appertaining to his office, within his knowledge, all further proceedings before such officer shall cease, and the person complained against shall be discharged.

4. If the person complained against shall not make such oath, and it shall appear that any such books or papers are withheld, the officer before whom such proceeding shall be had shall, by warrant, commit the person so withholding to the jail of the County, there to remain until he shall deliver such books and papers, or be otherwise discharged accord-

ing to law.

5. In the case stated in the last Section, if required by the complainant, such officer shall also issue his warrant, directed to any Sheriff or Constable, commanding them in the day time to search such places as shall be designated in such warrant for such books and papers as belonged to the officer so removed, or whose term of office expired, in his official capacity, and which appertained to such office, and seize and bring them before the officer issuing the warrant.

Upon any books and papers being brought before such officer, by virtue of such warrant, he shall inquire and examine whether the same appertained to the office from which the person so refusing to deliver was removed, or of which the term expired, and he shall cause the same to

be delivered to the complainant.

7. If any person appointed or elected to any office shall die, or his office shall in any way become vacant, and any books or papers belonging or appertaining to such office shall come to the hands of any person, the successor to such office may, in like manner as hereinbefore prescribed, demand such books or papers from the person having the same in his possession; and on the same being withheld, an order may be obtained, and the person charged may, in like manner, make oath of the delivery of all such books and papers that ever came to his possession; and in case of omission to make such oath, and to deliver up the books and papers so demanded, such person may be committed to jail, and a search warrant may be issued, and the property seized by virtue A. D. 1870.

thereof may be delivered to the complainant, as hereinbefore prescribed.

Damageshow recovered.

SEC. 454. If judgment be rendered, upon the right of the person so alleged to be entitled, in favor of such person, he may recover, by action, the damages which he shall have sustained by reason of the usurpation by the defendant of the office from which such defendant has been excluded.

One action against several persons claiming of-fice or franfice or chise.

Sec. 455. Where several persons claim to be entitled to the same office or franchise, one action may be brought against all such persons, in order of to try their respective rights to such office or franchise.

SEC. 456. When a defendant, whether a natural person or a corporation, Penalty for against whom such action shall have been brought, shall be adjudged surping of miller of properties or introduced in the control of properties o usurping of guilty of usurping or intruding into, or unlawfully holding or exercising chise, how to any office, franchise, or privilege, judgment shall be rendered that such be awarded. defendant be excluded from such office, franchise, or privilege, and also that the plaintiff recover costs against such defendant. The Court may also, in its discretion, fine such defendant a sum not exceeding two thousand dollars, which fine, when collected, shall be paid into the Treasury of the State.

Judgment forfeiture of poration.

SEC. 457. If it shall be adjudged that a corporation against which an action shall have been brought pursuant to this chapter, has, by neglect, against a cor- abuse or surrender, forfeited its corporate rights, privileges and franchises, judgment shall be rendered that the corporation be excluded from such corporate rights, privileges and franchises, and that the corporation be dissolved.

Costs against

Sec. 458. If judgment be rendered in such action against a corporation, a corporation or against persons claiming to be a corporation, the Court may cause the or persons costs therein to be collected by execution against the persons claiming to be such. How to be a corporation, or by attachment or process against the directors or be collected. other officers of such corporation other officers of such corporation.

Restraining Ver.

Sec. 459. When such judgment shall be rendered against a corporation, a corporation the Court shall have power to restrain the corporation, to appoint a rement of recei- ceiver of its property, and to take an account, and make distribution thereof among its creditors; and it shall be the duty of the Attorney-General, immediately after the rendition of such judgment, to institute proceedings for that purpose.

Copy of judg-ment-roll a-

SEC. 460. Upon the rendition of such judgment against a corporation, a- or for the vacating or annulling of letters patent, it shall be the duty of ration, where the Attorney-General to cause a copy of the judgment-roll to be forth-to be filed. with filed in the office of the Secretary of State. with filed in the office of the Secretary of State.

to letters patent.

SEC. 461. Such Secretary shall thereupon, if the record relates to let-Entry of judgment relating ters patent, make an entry in the records of the office of the Secretary of State, of the substance and effect of such judgment, and of the time when the record thereof was docketed; and the real property granted by such letters patent may thereafter be disposed of in the same manner as if such letters patent had never been issued.

Actions for forfeiture property the State.

Sec. 462. Whenever, by the provision of law, any property, real or of personal, shall be forfeited to the State, or to any officer for their use, to an action for the recovery of such property, alleging the grounds of the forfeiture, may be brought by the proper officer in the Circuit Court.

TITLE XIV.

A. D. 1870.

PROVISIONS RELATING TO EXISTING SUITS.

Sec. 463. Writ of error in all cases abolished. Appeal substituted.

464. Execution, when issuable on a judgment docketed before July 1st, 1870.

465. Application of this Act to actions pending. Extraordinary terms.

SEC. 463. No writ of error shall be hereafter issued in any case what- Writs of er-Wherever a right now exists to have a review of a judgment ren-abolished. dered, or order or decree made, before the first day of January, 1871, such review can only be had upon an appeal taken in the manner provided by this Act; but all appeals or writs of error heretofore taken from such judgments, orders or decrees, which are still pending in an Appellate Court, and not dismissed, shall be valid and effectual. But this Section shall not extend the right of review to any case or question to which it does not now extend, nor the time for appealing.

SEC. 464. An execution may be issued, without leave of the Court, when issuable upon a judgment docketed before the first day of July, 1870, or now or on a judgment hereafter to be rendered in an action pending on that day, at any time docketed Junitable five years of the rendering of the judgment within five years after the rendering of the judgment.

SEC. 465. The provisions of this Act apply to future proceedings in actions or suits heretofore commenced and now pending as follows:

1. If there have been no pleading therein, to the pleadings and all ins. subsequent proceedings.

2. When there is an issue of law or of fact, or any other question of fact to be tried, to the trial and all subsequent proceedings.

Application of this Act to actions pend-

TITLE XV.

GENERAL PROVISIONS.

Sec. 466. Definition of real property.

467. Definition of personal property.

468. Definition of property. 469. Definition of Clerk.

470. Rule of construction.

471. Inconsistent statutory provisions repealed.

472. Inconsistent rules and practice abrogated.

473. Judges to meet and make general rules. 474. Justices of Supreme Court may make rules.

Sec. 466. The words "real property," and "real estate," as used in "real property property and hereditaments.

Definition of real property." this Act, are co-extensive with lands, tenements, and hereditaments. 67

A. D. 1870.

Definition of personal pro-

SEC. 467. The words "personal property," as used in this Act, include money, goods, chattels, things in action, and evidences of debt.

SEC. 468. The word "property," as used in this Act, includes property,

real and persona.

Definition of property."

SEC. 469. The word "Clerk," as used in this Act, signifies the Clerk Definition of of the Court where the action is pending, and, in the Supreme Court, the another County to which the Court may have changed the place of trial, unless otherwise specified.

Rules of construction.

Sec. 470. The rule of common law, that statutes in derogation of that

law are to be strictly construed, has no application to this Act.

All statutory provisions inconsistent with this Act repealed.

Sec. 471. All statutory provisions inconsistent with this Act are repealed; but this repeal shall not revive a statute or law which may have been repealed or abolished by the provisions hereby repealed. And all rights of action given or secured by existing laws may be prosecuted in the manner provided by this Act. If a case shall arise in which an action for the enforcement or protection of a right, or the redress or prevention of a wrong, cannot be had under this Act, the practice heretofore in use may be adopted so far as may be necessary to prevent a failure of justice.

All present rules & prac-tice inconsis-tent with this abroga-

Sec. 472. The present rules and practice of the Courts in civil actions, inconsistent with this Act, are abrogated; but when consistent with this Act, they shall continue in force, subject to the power of the respective Courts to relax, modify or alter the same.

and Judges to general rules.

Justices of

rules.

Sec. 473. The Justices of the Supreme Court and the Judges of the The Justices Circuit Courts shall meet in general session on the first Tuesday in November, 1870, at the capital in Columbia, and in every two years there-A majority of said Justices and Judges shall constitute a quorum. after. At such session they shall revise the general rules of the Circuit Court, make amendments thereto, and such further rules, not inconsistent with this Code, as may be necessary to carry it fully into effect.

SEC. 474. The Justices of the Supreme Court shall from time to time the Supreme make such rules for the orderly conduct of business in said Court, as

Court to make they may deem proper, not inconsistent with this Act.

Sec. 475. Until the Legislature shall otherwise provide, the second part of this Act shall not affect proceedings by mandamus or prohibition.

Approved March 1, 1870.

ACTS OF THE GENERAL ASSEMBLY

OF THE

STATE OF SOUTH CAROLINA,

Passed at the Regular Session, which was begun and held at the city of Columbia, on the fourth Tuesday in November, A. D. 1870, and was adjourned, without day, on the seventh day of March, A. D. 1871.

ROBERT K. Scott, Governor. Alonzo J. Ransier, President of the Senate. Franklin J. Moses, Jr., Speaker of the House of Representatives.

AN ACT TO EXTEND THE TIME FOR OFFICERS TO QUALIFY.

A. D. 1870. No. 301.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all officers elected at the recent election be, and they are hereby, allowed until the fifteenth day of Time extend-January, 1871, to qualify and enter upon the duties of their respective 15, 1870. offices, and on failure to qualify within the specified time their respective

offices shall be declared vacant by the Governor. SEC. 2. That all Acts and parts of Acts inconsistent with this Act are Repealing hereby suspended until after the fifteenth of January next.

Approved December 21, 1870.

AN ACT TO VEST THE TITLE OF THE STATE TO A LOT OF LAND IN THE VILLAGE OF ORANGEBURG, OF WHICH DIEDRICH KLEPPING DIED SEIZED, IN THE PURCHASER OR PURCHASERS WHO SHALL PAY FOR THE PREMISES, UNDER A SALE BY A DECREE OF THE PROBATE COURT OF Charleston County, and to direct the application of the pro-CEEDS OF SALE.

No. 302.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the title of the State to a lot of land, and the buildings thereon, of which Diedrich Klepping died seized, situate on Main or Russell street, in the village and County of Orange-Location of burg, is hereby vested in Alexander Champey and Antoine R. Champey, Title-in their heirs and assigns, forever, upon their paying to the Judge of Probate for Charleston County the amount of their bid, and fully complying 68

Location of whom vested.



A. D. 1870.

Re-sale.

with the terms of sale of said premises, made 4th April, 1870; and if they fail to comply, said title is hereby vested in any purchaser or purchasers, his, her or their heirs and assigns, forever, who shall buy the premises on a re-sale.

Sec 2. The proceeds of the sale shall be applied by the Judge of Probate in the following order:

Application and disposiceeds.

To the payment of any taxes due on the premises.

2. To the payment of the necessary expenses incurred in applying for this Act.

3. To the expenses of administration, including commissions due the administrator of the estate of D. Klepping.

4. To the payment of such debts of the said Diedrich Klepping as are

yet unpaid.

5. And the balance, if any, to Mrs. Mette Ahlheid Meuller, mother of the said Diedrich Klepping, or to her order.

Approved December 23, 1870.

No 303.

AN ACT TO MAKE APPROPRIATIONS FOR THE PAYMENT OF THE PER DIEM AND MILEAGE OF MEMBERS OF THE GENERAL ASSEMBLY, AND THE SALARIES OF THE SUBORDINATE OFFICERS, AND OTHER EXPEN-SES INCIDENTAL THERETO.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That for the payment of the per diem and mileage of the members of the General Assembly, and the salaries of the subordinate officers, and other expenses incidental thereto, the sum of Amount ap- one hundred and thirty-five thousand dollars, if such be necessary, be, and the same is hereby, appropriated, out of any funds in the Treasury not otherwise appropriated.

Certificate s

propriated.

SEC. 2. That the Clerks of the Senate and House of Representatives for pay-how be, and they are hereby, authorized and directed to furnish to each memissued for be, and they are hereby, authorized and directed to furnish to each member of their respective bodies a pay certificate for the amount of his mileage and per diem, to include such dates as the General Assembly shall, by concurrent resolution, direct.

> Sec. 3. That such certificates shall conform to the provisions of Section 23, Article II, of the Constitution of the State, and shall be certified by the President of the Senate, and attested by the Clerk of the Senate, for all members of that body, and by the Speaker of the House of Representatives, and by the Clerk of the same, for all members of that body.

Pay of subordinates certificate for

SEC. 4. That the subordinate officers and employees of this General Assembly shall, in like manner, be furnished with certificates of pay in such amounts as shall be fixed by that branch of the General Assembly to which such officers and employees shall respectively belong: Provided, however, That the pay certificates for services common to the two Houses shall be signed by the President of the Senate, and countersigned by the Speaker of the House of Representatives.

Treasurer authorized to

SEC. 5. That the Treasurer of this State is hereby authorized and directed to pay said certificates out of any funds in the Treasury not otherwise disposed of, and to hold the certificates as his vouchers therefor.

Approved December 23, 1870.

AN ACT TO Provide a Salary for the Office of Lieutenant-GOVERNOR OF THE STATE.

A. D. 1871. No. 304.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Lieutenant-Governor of the State of South Carolina shall receive an annual salary of twenty five salary. hundred dollars, the same to be paid to him quarterly out of the Treasury of the State, the said salary to be exclusive of the pay heretofore provided by law for the Lieutenant-Governor whilst acting as President of the Senate.

\$2,500 to be

Proviso.

OFFICE SECRETARY OF STATE COLUMBIA, S. C., January 18, 1871.

This Act having been presented to the Governor for his approval, and not having been returned by him to the branch of the General Assembly in which it originated within the time prescribed by the Constitution, has become a law without his approval.

(Signed)

F. L. CARDOZO, Secretary of State.

AN ACT TO INCORPORATE THE HEDGES LIGHT GUARD, OF EDISTO, No. 305. SOUTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That P. P. Hedges, Abram Brown, members. Jonas Grant, Wallace Wescott and James Hutchinson, under the name and style of the Hedges Light Guard, and their successors and associates, be, and they are, respectively, incorporated and made and declared a body politic and corporate, in deed and in law, and as such body politic shall have the power to use and keep a common seal, and the same at will to alter, to make all necessary by-laws, not repugnant to the laws of the land, and to have succession of officers and members conformable to such by-laws; to sue and be sued, plead and be impleaded, in any Court of law or equity in this State; and to have, use and enjoy all other rights, and be subject to all other liabilities incident to bodies corporate.

SEC. 2. That this Act shall be deemed and taken to be a public Act, and shall continue in force for the space of fourteen years on, from and after its passage.

Approved January 23, 1871.

Names of

Powers and

A. D. 1871. AN ACT TO Provide for the Publication of the Acts, Reports, RESOLUTIONS, JOURNALS AND OTHER PAPERS OF THE GENERAL AS-No. 306. SEMBLY.

Assembly.

Journals and

General As- State and County officers entitled to the same. sembly.
Treasurer

pay accounts. Proviso.

Repealing

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Clerks of and by the authority of the same, That the Clerk of the Senate and the and Clerk of the House of Representatives be, and they are hereby, authorized He use to provide, by contract, for the publication, in such newspapers of the lication by State as may by them be deemed necessary, of the Acts and Joint Resolutions of the General Assembly; and they are further authorized to provide, by contract, for the permanent and current printing of the Gen-

Contract to eral Assembly: Provided, That said contract be approved by the Senate by General and House of Representatives.

SEC. 2. That a sufficient number of the Journals, Reports and Acts of To provide the General Assembly as may be necessary for the use of the members of Laws. Jour- the General Assembly, and for the State Librarian, to make the exchanges nals, &c. with other States, be bound in a good and substantial manner; and that the Clerk of the Senate and the Clerk of the House of Representatives be, and they are hereby, authorized to have the same done immediately upon the close of the session, or as soon thereafter as practicable.

Sec. 3. That on the completion of the permanent work they shall other documents to be forward by mail, or otherwise, as they may deem expedient, a copy to forwarded to each of the members of the General Assembly, and one to each of the

SEC. 4. That the State Treasurer be, and he is hereby, authorized and authorized to directed to pay all accounts for said work, out of any moneys in the Treasury not otherwise appropriated: Provided, The Clerks of the respective Houses shall first certify that said accounts are just and correct in all respects, and that the work has been performed in pursuance of contract; and that the amount mentioned in said accounts is due, and remains unpaid.

> SEC 5. That all Acts or parts of Acts or Joint Resolutions, inconsistent with this Act, are hereby repealed.

Approved January 23, 1871.

AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO AUTHOR-No. 307. IZE ADMINISTRATORS, EXECUTORS, AND OTHER FIDUCIARIES, TO SELL CERTAIN EVIDENCES OF INDEBTEDNESS AT Public Sale, and Com-PROMISE IN CERTAN CASES," APPROVED JANUARY 14, 1870.

Preamble. Whereas, prior to the ninth day of September, in the year of our Lord one thousand eight hundred and sixty-eight, many estates were disposed of, and the notes and accounts representing the purchase money of the same were deemed to be good at the time, have since been rendered doubtful, or worthless, by operation of the Act of the General Assembly to determine and perpetuate the homestead, and by other causes; therefore,

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all administrators, executors, and other fiduciaries, having in their possession as such, notes, accounts, and other evidences of indebtedness, heretofore appraised good, but which have since become doubtful or worthless, by operation of the Act of the General Assembly to determine and perpetuate the homestead, shall be allowed to dispose of the same in the manner prescribed in Sections 1 and

2 of the Act to which this is a supplement. SEC. 2. That where administrators, executors, and other fiduciaries, may dispose sold property as such prior to the passage of the Act to determine and per- of certain petuate the homestead, by the General Assembly, on the ninth day of property September, in the year of our Lord one thousand eight hundred and sixty-eight, and took notes, or other evidences of indebtedness, for the purchase money, which were regarded good at the time they were taken, but which have since been rendered doubtful or worthless, by operation of the homestead Act aforesaid, said administrators, executors, and other fiduciaries, shall be allowed to dispose of the same in the manner prescribed in Sections 1 and 2 of the Act to which this Act is a supplement.

A. D. 1871.

AN ACT TO RECHARTER THE PUMPKINTOWN TURNPIKE ROAD, IN PICKENS COUNTY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Turnpike Road leading from Pumpkintown to Table Rock, in Pickens County, be, and the same is the name hereby, rechartered in the name of Marcus D. Keith, for the term of four-of Marcus D. teen years, with the same rates of toll as those heretofore allowed by law.

SEC. 2. That all persons going to and returning from elections, churches allowed free and mills, shall be allowed to pass over the said road free of toll.

passage.

Approved January 23, 18, 1.

Approved January 23, 1871.

AN ACT TO INCORPORATE THE STONEWALL FIRE ENGINE COMPANY, OF CHESTER.

No. 309.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That T. S. Mills, R. M. Dunlevy, persons incor-E. T. Atkinson, J. T. Elliott, David Hemphill, J. H. Vanness and J. A. porated. Bradley, Jr., by the name and style of the Stonewall Fire Engine Company, of the town of Chester, and their associates and successors in office, be, and are hereby, created and constituted a body corporate and politic, by and under the name and style aforesaid, with a capital stock not Capital stock. to exceed the sum of ten thousand dollars, with the right to sue and be sued, plead and be impleaded in any Court of competent jurisdiction; to

Names of

A. D. 1871. have and to use a common seal, and the same to alter at will and pleasure; and, with all other rights, privileges and immunities that are now or Powers and hereafter may be secured by law to like incorporated bodies. privileges.

SEC. 2. That this Act shall be deemed a public Act, and shall remain

in force for the term of fourteen years.

Approved January 23, 1871.

AN ACT TO INCORPORATE THE NASHVILLE INDEPENDENT BLUES No. 310. CHARITABLE Association, of the City of Charleston, South CAROLINA.

corporated.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Persons in- bly, and by the authority of the same, That I. S. Lazarus, F. E. Raines, I. S. Goldsmith, T. J. Ford, and others, who now are, or hereafter may be, members and officers of the Nashville Independent Blues Charitable Association, and their successors, officers and members, be, and they are hereby, declared to be a body corporate and politic, under the name and style of "The Nashville Independent Blues Charitable Association;" and Powers and the said corporation shall, by its corporate name, sue and be sued, implead and be impleaded, in the Courts of this State, and shall be able and em-

privileges.

May hold property.

Proviso.

Common seal.

powered by law to purchase, have, hold, enjoy and possess any goods, chattels, lands, tenements, or real estate, of what kind or nature soever, and the same, or any part thereof, to sell, alien or convey at their will and pleasure: Provided, however, That the property so to be held shall not exceed the value of five thousand dollars; and the said corporation shall have power to make a common seal, with power to change and alter the same as often as they shall deem necessary.

SEC. 2. And be it further enacted, That this Act shall be deemed a public Act, and shall continue in force for the term of fourteen years.

Approved February 11, 1871.

No. 311.

AN ACT TO REGULATE THE RIGHT OF TRAVERSE.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same. That a traverse of an indictment shall not, in any Court of criminal jurisdiction in this State, of itself, operate to continue the case.

Approved February 11, 1871.

No. 312. AN ACT TO INCORPORATE THE CHARLESTON CLEANSING COMPANY, OF THE CITY OF CHARLESTON.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the incorporation of a Company,

to be known as the Charleston Cleansing Company, to be located in the city of Charleston, be, and the same is hereby, authorized. Said Company shall consist of Jacob Royall, Samuel Marion, Ben. Jenkins, Francis Corporated. Mazyck, Jack Middleton, Thomas Gauff, Edward Jackson and Friday Addison, and such other persons as may hereafter associate with them.

A. D. 1871. Persons in-

SEC. 2. That the said Company shall have succession of officers and members, according to its by-laws, shall have power to make by-laws not privileges. repugnant to the laws of the land, and to have, use and keep a common seal, to alter the same at will, and to sue and be sued, plead and be impleaded, in any Court in this State.

Powers and

SEC. 3. That the said Company shall be empowered to retain, possess and enjoy all such property, real and personal, as it may possess, be enhold and distitled to, or which shall hereafter be given by titled to, or which shall hereafter be given, bequeathed to, or in any man-erty. ner be acquired by it, and to sell, alien or transfer the same.

SEC. 4. That this Act shall be a public Act, and to continue in force for the term of ten years from the date of its ratification.

Approved February 11, 1871.

AN ACT TO Re-charter Moore's Ferry, under the name of Din-No. 313. KINS' FERRY, OVER THE CATAWBA RIVER

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Ferry over the Catawba River known as Moore's Ferry, be, and the same is hereby, re-chartered and vesting under the name of Dinkins' Ferry, and vested in L. M. Dinkins and his Ferry in L. M. legal representatives, for the term of fourteen, years from the passage of Dinkins for 14 legal representatives, for the term of fourteen years from the passage of this Act, with the same privileges, rights, franchises and emoluments as are at present secured by law: Provided, however, That children going to and returning from school, and others going to and returning from church, or from elections, shall be passed free over said Ferry. Approved February 11, 1871.

years.

Proviso.

AN ACT CEDING THE JURISDICTION OF THE STATE OF SOUTH CARO-LINA TO THE UNITED STATES OF AMERICA, OVER SUCH LANDS AS MAY BE ACQUIRED FOR PUBLIC PURPOSES BY THE SAID UNITED STATES OF AMERICA.

No. 314.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the jurisdiction of the State of South Carolina is hereby ceded to the United States of America, over so much land as shall be necessary for the public purposes of the United States: Provided, That the jurisdiction hereby ceded shall not vest until the United States of America shall have acquired the title to the lands by grant or deed from the owner or owners thereof, and the evidences thereof shall have been recorded in the office where, by law, the title to

Jurisdiction ceded.

Proviso.

A. D. 1871.

such land is recorded; and the United States of America are to retain such jurisdiction so long as such lands shall be used for the purposes in this Act mentioned, and no longer; and such jurisdiction is granted upon the express condition that the State of South Carolina shall retain a concurrent jurisdiction with the United States in and over the said lands, so far as that civil process, in all cases not affecting the real or personal property of the United States, and such criminal or other process as shall issue under the authority of the State of South Carolina against any person or persons charged with crimes or misdemeanors committed within or without the limits of the said lands, may be executed therein, in the same way and manner as if no jurisdiction had been hereby ceded.

Lands and tenements so

SEC. 2. That all the lands and tenements which may be granted, as ceded exempt aforesaid, to the United States, shall be and continue, so long as the same from taxation shall be used for the purposes in this Act mentioned, exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of the State of South Carolina.

Approved February 11, 1871.

No. 315. AN ACT TO INCORPORATE THE SOUTH CAROLINA SAVING AND BUILD-ING ASSOCIATION, No. 2.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That C. D. Brahe, C. Plenge, J. Steiber, R. Issertel, Henry E. Eckel, M. Israel, A. Tiefenthal, E. F. Benedickt, Philip Meitzler, John Rugheimer, A. W. Eckel, Charles Litschgi, A. Niemann, Edward-Pills, L. Klein, A. Litschgi, John M. Martin, J. H. Vollers, Charles Roessler, F. Heintz and C. O. Michalis, together with such other persons who now are, or hereafter may be, associated with them, be, and they are hereby, incorporated and deand clared a body politic and corporate, under the name and style of the

Name purpose of incorporation.

South Carolina Saving and Building Association, No. 2, for the purpose of buying and selling real and personal estate, and making loans of money, secured by mortgage of real and personal property.

Sec. 2. That the capital stock of the said corporation shall consist of

Capital Stock.

thirty shares, to be paid in by successive weekly installments of two dollars on each share, so long as the corporation shall continue, or by such other contributions as shall be assessed and required by an unanimous

Shares trans- vote of all the shareholders, the said shares to be held, transferred, assigned and pledged, and also to be liable to be forfeited to the corporation, and the holders thereof to be subject to such fines and forfeitures for violation of the Constitution, rules and by-laws, and for default of payment of the said contribution, as may be prescribed by the Consti-Shares-how tution, rules and by-laws of the said corporation; and, moreover, the said shares to be disposed of at the death, resignation or removal from the

disposed of in case of death.

> said constitution, rules and by-laws. Sec. 3. That the said corporation shall have such number and succession of officers and members as shall be ordained and chosen according to the constitution, rules and by-laws made, or to be made, by the said

State of any shareholder, in such manner as may be prescribed by the

Number and succession of officers.

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corporation for its government, and shall have power and authority to make any such constitution, rules or by-laws as are not repugnant to the Constitution and laws of the land; shall have and keep a common seal, Power make and alter the same at will; shall sue and be sued, plead and be impleaded, laws, &c. in any Court of law or equity in this State, and shall have and enjoy all and every right and privilege incident and belonging to corporate bodies.

Power to

May hold

Kind and

SEC. 4. That the funds of the said corporation may be invested in such property, real or personal, and securities, public or private, and loaned property. to shareholders and members or other persons or corporations on such securities, in such mode, on such terms, and such conditions, and subject to such regulations, as may be, from time to time, prescribed by the constitution, rules and by-laws of said corporation, and that it shall and may be lawful for the said corporation to take and hold such lands. tenements and hereditaments, and personal property, bonds, stocks, pub-perty. lic or private, and choses in action, as they shall acquire by purchase, devise, bequests, gifts, assignments or otherwise, and to take and hold such lands, tenements, hereditaments and personal property, and such stocks and bonds, public or private, or choses in action, as shall be mortgaged, conveyed, assigned or pledged to it by way of security upon its loans or advances or purchase at sales thereof, and to sell, alien, transfer or otherwise dispose of the same, from time to time, as the said corporation may deem expedient.

SEC. 5. That immediately after the expiration of ten years from the Division of present time, the assets of the corporation shall be fairly and justly di-assets and dissolution of vided among the stockholders and members thereof, and upon the distri-corporation. bution and division, then this corporation shall cease and determine.

SEC. 6. That this Act shall be taken and deemed a public Act, and that the same may be given in evidence, without being specially pleaded. Approved February 11, 1871.

AN ACT TO RENEW AND EXTEND AN ACT TO PROVIDE A MODE BY WHICH TO PERPETUATE TESTIMONY IN RELATION TO DEEDS, WILLS, Choses in Action, and other Papers and Records destroyed or LOST DURING THE RECENT WAR.

No. 316.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act entitled "An Act to provide a mode by which to perpetuate testimony in relation to Deeds, Wills, Choses in Action, and other papers and records destroyed or lost during the recent war," approved on the 21st day of December, in the year of our Lord one thousand eight hundred and sixty-five, be, and the same is hereby, renewed, and shall extend and continue in force for the term of five years, from the ratification of this Act.

Sec. 2. That said \mathbf{A} ct be further amended, so as to dispense with the personal service of any notice required under the provisions of said Act, and in all cases in which such notice shall be left at the usual place of residence or business of the defendant, the same shall be valid in law, to all intents and purposes, as if served upon the person of such defendant.

Approved February 11, 1871.

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A. D. 1871. AN ACT TO REGULATE THE APPOINTMENT, JURISDICTION AND DUTIES OF NOTARIES PUBLIC.

No. 317.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Governor to bly, and by the authority of the same, That the Governor be authorized to appoint as many Notaries Public throughout the State as the public good shall require, to hold their offices during the pleasure of the

Extent jurisdiction.

appoint.

Oath.

of Governor, and whose jurisdiction shall extend throughout the State. Sec. 2. That every Notary Public shall take the oath of office pre-'scribed by the Constitution, a certified copy of which oath shall be recorded in the office of the Secretary of State.

SEC. 3. That every Notary Public shall have a seal of office, which seal of omce. shall be affixed to his instruments of publication, and to his protestations; but the absence of such seal shall not render his acts invalid, provided his official title be affixed.

privileges.

Sec. 4. That Notaries Public shall have power to administer oaths. Powers and take depositions and affidavits, protest for non-payment bonds, notes, drafts and bills of exchange, take acknowledgments and proofs of deeds, and other instruments required by law to be acknowledged, and take renunciations of dower and inheritance.

Approved February 11, 1871.

AN ACT TO REPEAL SO MUCH OF AN ACT OF 1839 AS PROHIBITS THE No. 318. CLERKS OF THE COURTS OF THE STATE FROM ACTING AS ATTORNEYS OR SOLICITORS IN THE COURTS OF THE STATE.

clause.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Repealing bly, and by the authority of the same, That so much of the Act of 1839 as prohibits the Clerks of the various Courts of this State from acting as Attorneys and Solicitors in the Courts of the State, be, and the same is hereby, repealed.

Clerks priv-SEC. 2. That from and after the passage of this Act, the Clerks of the ileged to prac-tice law out-side of their different Courts of this State shall have the privilege of acting as Attorneys and Solicitors in all the Courts in the State, except in the Courts of respective Counties. their respective Counties, provided such Clerks shall have complied with the requirements of an Act to regulate the admission of persons to practice as Atttorneys, Solicitors and Counsellors in the Courts of this State, approved the 23d day of September, 1868.

Approved February 11, 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH A STATE No. 319. ORPHAN ASYLUM."

> Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section 6 of the Act to establish a State Or-

phan Asylum, passed January 19, 1869, be so amended as to give to the Trustees thereof the power to bind out orphan children resident therein: Provided, That said Trustees shall make it, in all cases, a condition that said children shall receive a good common school education, and that out orphans. said Trustees shall exercise a supervisory control over such children during the continuance of their apprenticeship. Approved February 11, 1871.

A. D. 1871.

Trustees power to bind

Orphans to

AN ACT TO RENEW AND AMEND THE CHARTER OF THE TOWN OF SPARTANBURG.

No. 320.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passage of this Act, all citizens of this State, having resided twelve months within the State, and sixty days in the town of Spartanburg, shall be deemed, and are hereby declared to be, a body politic and corporate; and the said town shall be called and known by the name of Spartanburg, and its corporate limits shall extend one mile in each direction from the Court town. House in said town.

Limits

Sec. 2. That the said town shall be governed by an Intendant and six Wardens, who shall be citizens of the United States, and who shall have resided in this State twelve months, and shall have been residents of the said town sixty days immediately preceding their election, and who shall be elected on the second Monday in September of each year, ten days' public notice thereof being previously given; and that all male inhabi- cers. tants of the age of twenty-one years, citizens of the State, and who shall have resided within the State twelve months, and in the said town sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens, paupers and persons under disabilities for crime excepted.

Government of said town.

Manner electing offi-

Exception.

Elect i o n-

SEC. 3. The said election shall be held at some convenient public place when and in said town, from eight o'clock in the morning until four o'clock in the where to be afternoon; and when the polls shall be closed, the Managers shall forthwith count the votes and declare the election, and give notice thereof, in writing, to the Intendant then being, who shall, within two days thereafter, give notice, or cause the same to be given, to the persons duly elected. The Intendant and Wardens, before entering upon the duties of their offices, shall, respectively, take the oath prescribed by the Constitution of this State, and, also, the following oath, to-wit: "As Intendant (or Oath of office. Warden) of the town of Spartanburg, I will, equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected: So help me God." And if any person, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay to the Council the sum of twenty dollars for the use of the said town: Provided, That no person who has attained the age of sixty years shall be compelled to serve in either of said offices; nor shall any other person be compelled to serve either as

Proviso.

A. D. 1871. Intendant or Warden more than one year in any term of three years. The Intendant and Wardens, for the time being, shall always appoint one or more Boards of Managers, three Managers for each Board, to conduct the election, who, before they open the polls, shall take an oath fairly and

impartially to conduct the same.

Vacancieshow filled.

SEC. 4. That in case a vacancy shall occur in the office of Intendant or any of the Wardens, by death, resignation, removal, or otherwise, an election shall be held to fill such vacancy, by order of the Intendant and Wardens, or a majority of the same, ten days' public notice being previously given; and in case of sickness or temporary absence of the Intendant, the Wardens forming the Council shall be empowered to elect one of their number to act as Intendant during the time.

Term of office and powers of officers.

SEC. 5. That the Intendant and Wardens duly elected and qualified shall, during their term of service, severally and respectively, be vested with all the powers of Trial Justices, or Justices of the Peace, as the case may be, in this State, within the limits of the said town, except for the trial of civil cases. And the Intendant shall or may, as often as is necessary, summon the Wardens to meet in Council, any three of whom, with the Intendant, or any four of the Wardens, may constitute a quorum to transact business; and they shall be known as the Town Council of Spartanburg. And they and their successors in office, hereafter to be elected, may have a common seal, which shall be affixed to all their ordinances; may sue and be sued, plead and be impleaded, in any Court of justice in this State, and pur-May hold chase, hold, possess and enjoy, to them and their successors, in perpetuity, or for any term of years, any estate, real, personal or mixed, and sell, alien or convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars. And the said Town Council shall have authority to appoint, from time to time, as they may Appointment see fit, such and so many proper persons to act as Marshals or Constables of said town, as the said Council may deem necessary and expedient for the preservation of the peace, good order and police thereof, which per-

property.

Proviso.

of Constables.

Duties and liabilities of Constables.

finement.

Commitment-for what length of time.

the power and privileges, and be subject to all the obligations, penalties and regulations provided by law for the office of Constable, and shall be liable to be removed at the pleasure of said Council. Town Council shall have power to establish or authorize the establish-Market house ment of a market house in said town; also to establish or authorize the establishment of a guard house, and to prescribe suitable rules and regulations for keeping and governing the same, and until the said guard house be established, they shall be authorized to use a room in the com-Place of con- mon jail of the County of Spartanburg for the confinement of all who may be subject to be committed for a violation of any ordinances, rules and regulations of said town; and the said Town Council, or the said Intendant and Wardens, in person, any one or more of them, may authorize and require any Marshal of the town, or any Constable specially appointed for that purpose, to arrest and commit to the said guard house or jail of Spartanburg County, as the case may be, for a term not exceeding twenty-four hours, any person or persons, who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or any

sons so appointed shall, within the corporate limits of said town, have

conduct grossly indecent or dangerous to the citizens of said town, or any of them. And it shall be the duty of the Town Marshal or Constables to arrest and commit all such offenders when required so to do, shals—powers and who shall have power to call to their assistance the posse comitatus, and duties. if need be, to aid in making such arrests; and upon the failure of said officers to perform such duty as required, they shall severally be subject to such fines and penalties as the Town Council may impose upon them. And all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said costs and expenses shall be collected in the same manner as is provided for the collection of fines imposed for the violation of ordinances, rules and regulations: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose for the offence which he, she or they may have And the said Town Council shall have full power and authority, under their corporate seal, to make all such rules and regulations, by-laws and ordinances, respecting the streets, roads and the business thereof, as well as the police system of the said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for preserving health, order and good government within said town. And the said Town Council may impose fines for offences said town. And the said Town Council may impose fines for offences Jurisdiction against their by-laws, rules and regulations and ordinances, and appro- of the Town Council. priate the same to the public use of said town. And the said Town Council shall have the same power that Trial Justices or Justices of the Peace now have, or may hereafter have, to compel the attendance of witnesses, and requiring them to give evidence upon the trial before them of any person or persons, for a violation of any of their ordinances, bylaws, rules or regulations; but no fine above the sum of twenty-five dollars shall be collected by the said Council, except by suit in the proper Courts of justice in this State, and that no fine shall exceed the amount of fifty dollars; and, also, that nothing herein contained shall authorize the said Council to make any ordinance or by-law inconsistent with, or repugnant to, the laws of the State.

SEC. 6. That the said Intendant and Wardens, or a majority of them, shall have full power to abate and remove all nuisances in said town, and it shall be their duty to keep all roads, ways, bridges and streets within the corporate limits of the said town open and in good repair; and, for that purpose, they are invested with all the powers of County Commissioners or Commissioners of Roads, for and within the corporate limits of the said town; and they may lay out new streets, close up, widen, or otherwise alter those now in use; and shall have full power to classify and arrange the inhabitants or citizens of said town, liable to street, road, or other public duty therein, and to force the performance of such duty under such penalties as are now, or shall hereafter be, prescribed by law. the streets, ways and roads in said town, upon such terms as their ordinances or by-laws may establish or their rules and roads in said town, upon such terms as their ordinances or by-laws may establish or their rules and their rules are their rules and their rules are the rules are th nances or by-laws may establish, or their rules and regulations require, streets. the moneys so received to be applied to the public use of the said town. And all persons refusing to labor, or failing to pay such commutation, shall be liable to such fine, not exceeding twenty dollars for any one year, as the said Town Council may impose; and they shall have power to enforce the payment of such fine in the same manner as is now or

A. D. 1871.

Power to make rules and regulations.

Police of the

A.D. 1871.

may be hereafter provided for the collection of County taxes. said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within the said town, as they may deem necessary, by the sale of the freehold therein, either at private or public sale, as they may adjudge best for the interest of the said town; and they shall keep in repair all such new streets, roads and ways as they may, from time to time, deem necessary for the improvement and convenience of said town: Provided, That no street, road or way shall be opened, without first having obtained the consent of the land-owner or owners thereof through whose premises any such new street, road or way may pass.

Sidewalkshow made and kept.

Proviso.

Sec. 7. The said Town Council shall have power and authority to require all persons owning a lot or lots in said town to close in, and to make and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any public street of said town, if, in the judgment of the Council, such sidewalk shall be necessary; the width thereof, and the manner of construction, to be designated and regulated by the said Town Council; and for the default or refusal, after reasonable notice, to make and keep in good repair such sidewalks, and to close in such lot or lots, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing; and the said Town Council are hereby empowered to sue for and recover the same, by action of debt, in any Court of competent jurisdiction: Provided, That such contract for making or repairing is let to the lowest bidder. The cemeteries and public graveyards are also placed under the jurisdiction of the said Town Council

Sec. 8. The Intendant and Wardens of the said town, or a majority of

Council may grantlicenses

Proviso.

Shall have power to impose tax.

them, shall have full power to grant or refuse licenses to keep taverns, or retail spirituous liquors within the corporate limits of the said town, upon such conditions, and under such circumstances as to them shall seem proper and right: Provided, That in no instance shall the price of a license to keep a tavern or to retail spirituous liquors be less than the amount established by the State; and all moneys paid for licenses and for fines and forfeitures shall be appropriated for the public uses of the said town: Provided, That the Intendant and Wardens duly elected shall not have power to grant any license to keep tavern or retail spirituous liquors to extend beyond the term for which they have been elected. have power to regulate sales at auction within the corporate limits of the town, and to grant licenses to auctioneers, itinerant traders, to keepers of hotels, livery stables, billiard tables, ten-pin alleys, or other kinds of game of hazard, skill, or chance, on all drays, carts wagons, carriages, omnibuses, buggies, horses, mares, or mules, kept for hire or used for public purposes in said town. And they shall have the full and only power to impose a tax on all shows or exhibitions for gain or reward within the corporate limits of said town. They shall have power to impose a tax not exceeding twenty cents on every hundred dollars of the value of all real and personal property lying within the corporate limits of the town, the real and personal property of churches and school and college associations excepted. That an ordinance declaring the rate of annual taxation upon property and other subjects of annual taxation for the year, shall be published at least three weeks during the month of January in

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each year, except the first publication, which shall be immediately after this amended charter is accepted and adopted by the General Assembly of this State: Provided, That if, in the judgment of the said Town Council, any property, real or personal, shall be returned below its actual and true value, then, in such cases, reference shall be made to the books of the County Treasurer, and the last assessment of such property made by the County Assessors shall be taken as the value of the same; and that all persons liable to taxation under the same shall make oath of their taxable property within said town, and make payment of their taxes to the Clerk and Treasurer of the said corporation, or such other person as they may be ordered and required to do, during the succeeding month after publication; and upon failure to make such return and payment, as required, the parties so in default shall be subject to the penalties provided by law for failure to pay the general State and County tax, to be enforced by the orders of the Intendant and Wardens, or a majority of them, for the use of the said town, except that in such cases executions to enforce the payment of such taxes shall be issued under the seal of the corporation, and may be directed to the Town Marshal, or other person appointed by the said Town Council, to levy, collect and receive the same, with costs, as in such cases made and provided by law. And all property upon which such tax shall be levied and assessed is hereby declared and made liable for the payment there f in preference to all other debts, except debts due to the State, which shall be first paid. And that all other taxes imposed by the Intendant and Wardens, or a Taxes-when majority of them, shall be payable in advance by the parties liable for payable. the same, and on failure of payment, their property shall be liable for the same, as in manner and form just before stated.

SEC. 9. The Intendant and Wardens elect, together with Clerk and Treasurer, shall, during their term of office, be exempt from street and police duty. Each Town Council shall, within one month after the expiration of their term of office, make out and return to their successors cil to make full returns of in office a full account of their receipts and expenditures during their term, receipts which account shall be published in one or more papers of the town or expenditures. County, and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and other papers incident to their office to their successors; and on failure to do so, they shall be liable to be fined in a sum not exceeding five hundred dollars, to be

collected by any proper action of the Town Council

SEC. 10. That all ordinances heretofore passed by the Town Council of Spartanburg, in conformity with the authority granted by existing laws, shall be, and they are hereby, declared legal and valid.

Sec. 11. All Acts and parts of Acts heretofore passed in relation to the incorporation of the town of Spartanburg be, and the same are hereby,

repealed.

Sec. 12. This Act shall be deemed a public Act, and continue in force for the term of twenty years, and until the end of the session of the Leg islature thereafter.

Approved February 11, 1871.

A. D. 1871. Proviso.

Town Coun-

Repealing clause.

A. D. 1871. AN ACT TO INCORPORATE THE MOSES GUARDS, OF RIDGEWAY, IN FAIR-FIELD COUNTY.

No. 321.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That S. M. Smart, Jack P. James, Wyat Boulware and Samuel Adams, and their successors in office, be and are hereby, constituted a body corporate and politic, under the name Capital stock. and style of the Moses Guards, with a capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead

STATUTES AT LARGE

privileges.

and be impleaded in any Court of competent jurisdiction, to have and to use a common seal, and the same to alter at will and pleasure, and with Powers and all other rights, privileges and immunities that are now secured by law to like incorporated bodies.

SEC. 2. This Act shall be deemed a public Act, and shall remain in

force for a term of fourteen years.

OFFICE SECRETARY OF STATE, COLUMBIA, S. C. February 13, 1871.

The foregoing Act, having been presented to the Governor of this State for his approval, and not having been returned by him to the branch of the General Assembly in which it originated, within the time prescribed by the Constitution, has become a law without his approval.

F. L. CARDOZO, (Signed)

Secretary of State.

No. 322. AN ACT TO INCORPORATE THE LOGAN FUSILEERS, OF THE PARISH OF ST. THOMAS AND ST. DENNIS, CHARLESTON COUNTY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same. That Aaron Logan, G. H. Allen, Benjamin Holmes, Warley Venning, Jonah Mitchell and Robert Nowell, and their associates and successors, are hereby made and created Name of cor- a body politic and corporate, under the name and style of "The Logan Fusileers."

poration.

Corporate rights and privileges.

Sec. 2. And said corporation shall have power to make by-laws, not repugnant to the laws of the land; and shall have succession of officers and members according to their elections; and to keep and use a common seal, the same to alter at will; to sue and be sued in any Court in this State; to have and enjoy every right, power and privilege incident to such corporations; and it is hereby empowered to acquire, retain and enjoy all such property, real and personal, as may be given or bequeathed to, or purchased by it; and to sell, convey or mortgage the same, or any part thereof, at will.

SEC. 3. That said corporation may, from time to time, invest their Investment of capital. moneys, assets or any property which it may acquire, in such real and

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personal property, bonds, stocks, or in sureties, in such sums, and on such terms and conditions as it may deem proper; and to execute bonds, &c., under its corporate seal: Provided, That the maximum value of all property held and owned by said corporation shall not exceed twenty-five thousand (25,000) dollars.

A. D. 1871.

Proviso.

SEC. 4. This Act to continue in force during fifteen years, and may be given in evidence without being specially pleaded.

OFFICE OF SECRETARY OF STATE COLUMBIA, S. C., February 13, 1871.

The foregoing Act, having been presented to the Governor of this State for his approval, and not having been returned by him to the branch of the General Assembly in which it originated within the time prescribed by the Constitution, has become a law without his approval. F. L. CARDOZO (Signed) Secretary of State.

AN ACT TO AMEND THE CHARTER OF THE COLUMBIA BUILDING AND LOAN ASSOCIATION.

No. 323.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act entitled "An Act to incorporate the Columbia Building and Loan Association," approved on the first day of March, in the year of our Lord one thousand eight hundred and sixtynine, be, and the same is hereby, so altered and amended that the said Columbia Building and Loan Association may have power to take, purchase and hold real estate, and to sell and transfer the same, from time sell real estate, and to sell and transfer the same, from time sell real estate. to time, to its members, on such terms and under such conditions, and subject to such regulations, as may be prescribed by the rules and by-laws of the said corporation: Provided, That the real estate held by said Capital stock. corporation shall not at any time exceed the value of two hundred thousand dollars.

Approved February 27, 1871.

AN ACT TO PROTECT THE RIGHTS OF PARENTS, AND TO PREVENT THE PROCURING AND CARRYING FROM THE STATE PERSONS UNDER THE AGE OF TWENTY-ONE YEARS.

No. 324.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That if any person shall hire or employ any minor, or person under the age of twenty-one years, without

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A. D. 1871. the knowledge and consent of the parents or guardian of such minor, such person shall pay to the said parents or guardian the full value of the labor of said minor from and after notice from the parents or guardian that payment for such service shall be made to him or them, as the case

Persons carrying away minors-how punished.

may be, or be imprisoned in the County jail for a period of six months. Sec. 2. That if any person shall procure and carry without the limits of the State any minor or person under the age of twenty-one years, without the consent of the parents or guardian of such minor, such person shall, upon conviction thereof, be fined in a sum not less than one hundred, nor more than five hundred dollars, or be imprisoned in the Penitentiary of the State for a period of not less than one year.

Approved March 1, 1871.

No. 325. AN ACT TO SUPPLY THE DEFICIENCY IN THE APPROPRIATION FOR THE Support and Maintenance of Free Schools for 1870.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the sum of forty thousand dollars, or as much \$40,000 appropriated. thereof as may be necessary, be, and the same is hereby, appropriated out of any moneys in the Treasury, not otherwise appropriated, to pay the

To whom to salaries of the teachers of the free schools in the State, to January 1, be paid.

1871, which, by the inadequate appropriation already made, have been unpaid, to the great distress of the teachers employed in the same: Pro-How to be vided. That the foregoing appropriation shall be paid on the order of paid. the State Superintendent of Education, with the approval of the Governor, and no part of said appropriation shall be used for any other purpose than the payment of the salaries of teachers.

Approved February 28, 1871.

No. 326. AN ACT TO INCORPORATE THE "MECHANICS'UNION, No. 1," OF THE CITY OF CHARLESTON, S. C.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assemor bly, and by the authority of the same, That Henry Canneville, and such other persons as may now, or hereafter shall be, associated with him, are hereby made and declared to be a body politic and corporate, by the name and style of "The Mechanics' Union, No 1," of the city of Charleston.

Names corporators.

Sec. 2. That said association shall have succession of officers and mem-Corporate BEC. 2. That said association shall have succession of officers and mem-ricints and bers, according to its by-laws, shall have power to make by-laws (not re-privileges. pugnant to law) and to have and use a common seal, and the same to alter at will, to sue and be sued, plead and be impleaded, in any Court in this State, to retain, possess and enjoy all such property, real and personal, as it may possess or be entitled to, or which shall hereafter be given, bequeathed to, or in any manner acquired by it, and to sell, alien or transfer the same.

SEC. 3. That this Act shall be deemed a public Act, and continue in force for a term of twenty years.

Approved February 28, 1871.

AN ACT TO INCORPORATE THE TOWN OF TIMMONSVILLE.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all persons, citizens of the United States, who now are or hereafter may be, inhabitants of the Town of Timmonsville, shall be deemed, and are hereby declared to be, a body politic and corporate, and that said town shall be called and known by the limits of town name of Timmonsville, and its limits shall extend one mile, in the direction of the cardinal points, from the depot of the Wilmington and

A. D. 1871.

No. 327.

Manchester Railroad Company, as a centre, and form a square. SEC. 2. That the said town shall be governed by an Intendant and four Wardens, (who shall be citizens of the United States, and shall have been residents of said town for sixty days immediately preceding said election,) who shall be elected at such time, and at such place in Interndent said village, as the Intendant and Wardens shall designate, ten days' and Wardens. public notice being previously given; and that all male inhabitants of the said town, of the age of twenty-one, who have resided therein sixty days immediately preceding the election, shall be entitled to vote for, and be elected as, Intendant and Wardens, and the election shall be held from when to be six o'clock in the morning until six o'clock in the afternoon, when the polls held. shall be closed, and the Managers shall count the votes and proclaim the election, and give notice thereof to the persons elected; and that the Intendant and Wardens for the time being shall appoint the Managers to hold the ensuing election. That the Intendant and Wardens, before entering upon the duties of their offices, shall take the oath prescribed by the Constitution of this State, and also the following oath, to wit: "As Intendent (or Warden) of the Town of Timmonsville, I will, equally and impartially, to the best of my skill and ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purposes of my appointment. So help me God.'

Election of

declared.

Oath of offi-

SEC. 3. That in case a vacancy shall occur in the office of Intendant or any of the Wardens, by death, resignation, removal from the State, or from any other cause, an election shall be held to fill such vacancy, and the Intendant and Warden, (or Wardens, as the case may be,) shall give ten days' previous notice of such election; and, in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council. shall be empowered to elect one of their number to act as Intendant during

Vacancies-

SEC. 4. That the Intendant and Wardens, duly elected and qualified, Judicial powers of officers. shall, during their term of service, have the same powers which a Trial Justice now has to compel the attendance of witnesses, and require them to give evidence upon the trial before them of any person for the vio'ation of any of the by-laws or ordinances of the town; that the Intendant shall, as often as occasion may require, summon the Wardens to meet. him in Council, a majority of whom shall constitute a quorum for the transaction of business, and shall be known by the name of the Town Council of the Town of Timmonsville; and they and their successors in office shall have a common seal, and shall have power to appoint, from time to time, such and so many proper persons, to act as Marshals or Constables, as

they shall deem expedient and proper, which officers shall have all pow-

such sickness or absence.

A.D. 1871.

ers, privileges and emoluments, and be subject to all the duties, penalties and regulations, provided by the laws of this State for the office of Constable; and the Intendant and Wardens, in Council, shall have power and authority, under their corporate seal, to ordain and establish all such rules and by-laws and ordinances, respecting the streets, ways, public wells and springs or fountains of water, markets, and police of said Town of Timmonsville, and for preserving health, peace, order, and good government within the same, as they may deem expedient and proper, not inconsistent with or repugnant to the laws of the State; and all such by-laws and ordinances shall at all times be subject to revisal or repeal by the General Assembly of the State; and the said Council may affix fines for offences against such by-laws and ordinances, and appropriate the same to the use of the corporation; but no fine shall exceed thirty dollars; and when fines shall exceed twenty dollars, they may be recovered in a Trial Justice Court of the County of Darlington; and when they are of the amount of twenty dollars or under, they may be recovered before said Intendant and Wardens in Council.

Street, road nd other and public duty.

Sec. 5. That the said Council shall have power to abate and remove nuisances within the limits of said town, and also to classify and arrange the inhabitants liable to police duty, and require them to perform such duty as occasion may require, and to enforce the performance thereof, under the same penalties as are now, or may hereafter be, established by law: Provided, always, nevertheless, That the said Council shall have power to compound with persons liable to perform such duty upon such terms as they shall by ordinance establish.

Proviso.

Sec. 6. That it shall be the duty of the Intendant and Wardens to keep all streets and ways which may be necessary for public use, within the limits of said town, open and in good repair, and for that purpose they are hereby invested with all the powers, rights and privileges granted by law to the County Commissioners within the limits of said town; and, for neglect of duty, they shall be liable to the pains and penalties imposed by law upon Commissioners of Roads for like neglect; and they are hereby individually exempt from the performance of road and police duty within the limits of said corporation.

May com-pound with persons.

SEC 7. That the said Intendant and Wardens shall have power to compound with persons liable to work on the said streets and ways, and to release such persons as may desire it, upon the payment of such sums of money as they may deem a fair equivalent therefor, to be applied by them to the use of said corporation.

May hold of property.

SEC. 8. That the said Council of the town of Timmonsville shall also be empowered to retain, possess and enjoy all such property as they may now be possessed of, or entitled to, or which shall hereafter be given, bequeathed to, or in any manner acquired by them, and to sell, alien, or in any way transfer the same, or any part thereof: Provided, The amount of property so held, or stock invested, shall in no case exceed twenty thousand dollars.

Impose annual tax.

SEC. 9. That the said Council shall also have power to impose an annual tax on all the real and personal property within the corporate limits of said town: Provided, Said tax does not exceed fifty cents on the one hundred dollars.

Regulate

SEC 10. That the Intendant and Wardens of the said town of Timmonsville shall have power to regulate sales at auction within the limits

of said village, and to grant licenses to auctioneers: Provided, That nothing herein contained shall extend to sales by or for the Sheriffs, Clerks of Court, Judges of Probate, Coroners, Executors and Administrators, Assignees, or by any other person, under the order of any Court Trial Justice, or other inferior Court.

A. D. 1871. Proviso.

SEC. 11. That the Intendant and Wardens of said town of Timmonsville shall have power and authority to require all persons owning a lot or lots in the said town of Timmonsville to keep in repair the sidewalks adjacent to their lots, respectively, and, for default in this matter, shall have power and authority to impose a fine not exceeding fifteen dollars.

Sidewalks.

SEC. 12. That the power to refuse or grant licenses to keep a tavern, or to retail intoxicating drinks, be, and the same is hereby, vested in the licenses. said Council of the town of Timmonsville, and that they also be invested with all necessary power, by ordinance or ordinances, to suppress or regulate the sale of intoxicating drinks: Provided, That no rule or regulation shall be inconsistent with the Constitution and laws of the State.

May grant

SEC. 13. That this Act shall be taken and deemed as a public Act in all Courts of Justice, and shall continue in force until repealed.

SEC. 14. That so much of Section 10 of "An Act to incorporate certain towns and villages, and to renew and amend certain charters heretofore granted," ratified on the 21st day of December, A. D. 1857, as incorporated the village of Timmonsville, is hereby repealed.

Approved February 28, 1871.

AN ACT TO CHARTER THE TOWN OF HAMBURG.

No. 328.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passage of this Act, all citizens of this State having resided sixty days in the town of Hamburg shall be deemed, and are hereby declared to be, a body politic and corporate; and the said town shall be called and known by the name of Hamburg, and its corporate limits shall be held and deemed to extend from the Savannah Bridge, leading to Augusta, Georgia, one mile west, one-half a mile east, and one mile north.

Name limits of town

Sec. 2. That the said town shall be governed by an Intendant and four Wardens, who shall be citizens of this State, and shall have resided within the corporate limits of said town for sixty days immediately preceding their election, who shall be elected on the second Monday in April in every year, ten days' public notice thereof being previously given; and that all male inhabitants of the age of twenty-one years, citizens of this State, and who shall have resided in the said town for sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens.

Intendant and Wardens —who eligible

SEC. 3. That the election for Intendant and Wardens of the said town shall be held at the Town Hall, in the said town, from eight o'clock in when and how held and the morning until four in the afternoon; and when the polls shall be declared. closed, the Managers shall forthwith count the votes and proclaim the

election, and give notice, in writing, to the persons elected; the Intend-

Electors.

ant and Wardens shall appoint three Managers to hold the ensuing and

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every subsequent election, except the first, which shall be ordered by the County Commissioners of Edgefield County immediately after the passage of this Act. The Managers, in each case, shall, before they open the polls for said election, take an oath fairly and impartially to conduct the same; and the Intendant and Wardens, before entering upon the duties of their respective offices, shall take the oath prescribed by the Oath of offi- Constitution of this State, and also the following oath, to wit: "As Intendant (or Warden) of the town of Hamburg, I will equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purposes for which I have been elected: So help The said Intendant and Wardens shall hold their offices from me God." the time of their election until the second Monday in April ensuing, and until their successors shall be elected and qualified.

Vacancies. how filled.

SEC. 4. That in case a vacancy should occur in the office of Intendant or any of the Wardens, by death, resignation, removal, or otherwise, or in case of a tie in said election, an election to fill such vacancy shall be held by the appointment of the Intendant and Wardens or Warden, (as the case may be,) or the County Commissioners of Edgefield County, if there should be no Intendant or Wardens, ten days' public notice thereof being previously given; and in case of the sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their number to act in his stead during the time.

SEC. 5. That the Intendant and Wardens, duly elected and quali-

Judicial power of offified, shall, during their term of service, severally and respectively, cers.

be vested with all the jurisdiction and powers of Trial Justice, or any other inferior Court, within the limits of the said town. Intendant shall and may, as often as he may deem it necessary, summon the Wardens to meet in Council, (any two of the Wardens, with the Intendant, shall constitute a quorum to transact business;) and they shall be known as the Town Council of Hamburg, and they and their successors, hereafter to be elected, may have a common seal, which shall May appoint be affixed to all the ordinances. And the said Town Council shall have authority to appoint, from time to time, as they may see fit, such and so many proper persons to act as Marshals or Constables of the said town, as the said Town Council may deem necessary and expedient for the preservation of the peace and good order of the town, and the persons so appointed shall, within the corporate limits of said town, have the powers, privileges and emoluments, and be subject to all the obligations, penalor Constables. ties and regulations, provided by law for the office of Constable, and shall be liable to be removed at the pleasure of said Council; and the said Town Council shall have the power to establish, or authorize the establishment, of the market house in said town; and the said Town Council shall have full power and authority, under their corporate seal, to make all such rules, by-laws and ordinances respecting the streets, roads, market house, and the business thereof, and the police system of the said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for the preserving health, order and good gov-May impose ernment within the same. And the said Town Council may impose fines

for offences against their by-laws and ordinances, and appropriate the same to the public use of said town; and the said Town Council shall

Liabilities, uties and emoluments

Marshals.

have the same power which Trial Justices now have to compel the attendance of witnesses, and requiring them to give evidence upon the trial before them of any person for a violation of any of their by-laws or ordinances, but no fine above the sum of twenty dollars, or imprisonment in the guard house longer than ten days, shall be imposed by them, except by suit in the Court of Common Pleas: And provided, also, That no fine shall exceed fifty dollars; and, also, that nothing herein contained shall authorize the said Council to make any by-laws or ordinances inconsistent with, or repugnant to, the laws of this State; and all the by-laws, rules and ordinances the said Council may make shall, at all times, be subject to revisal or repeal by the General Assembly of this State.

SEC. 6. That the said Intendant and Wardens shall have full power to str abate and remove nuisances in the said town; and it shall be their duty public duty. to keep all roads, ways and streets within the corporate limits of the said town open and in good repair, and for that purpose they are invested with all the powers heretofore granted to County Commissioners, and shall have full power to classify and arrange the inhabitants of said town liable to street, road or other public duty therein, and to force the performance of such duty, under such penalties as are now or shall hereafter be prescribed by law: Provided, That the said Town Council may compound with persons liable to perform such duty, upon such terms and on the payment of such sums as may be established by laws or ordinances: And provided, also, That the individuals who compose the said Town Council shall be exempt from the performance of road and police duty.

SEC. 7. That the power to grant or refuse license for billiard tables, to keep tavern or to retail spirituous liquors, and on all drays and carts hauling goods for which they receive pay, also, all omnibuses or carriages carrying passengers within said town, at such rates and on such terms and conditions as the said Council may deem fit and proper; and the said Intendant and Wardens shall have the full and only power to impose a tax on all shows, exhibitions, or public amusements, for gain or reward, within the limits of said town. And all money paid for license for retailing spirituous liquors, keeping tavern and billiard tables, dray and cart license, and omnibuses or carriages, and the tax collected on all shows for gain or reward within the said limits, shall be appropriated to the public use of the said corporation.

SEC. 8. That the Town Council of Hamburg shall have power and au-ority to require all persons owning a lot or lots in said town to keep in sidewalks. thority to require all persons owning a lot or lots in said town to keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any of the public streets of said town, if, in the judgment of the Council, such sidewalks shall be necessary; the width thereof, and the manner of their construction, to be designated and regulated by the Town Council; and for default or refusal to keep in repair such sidewalks, the Town Council may cause the same to be put in repair, and require the owner to pay the price of repairing: Provided, That such contract for repairing be let to the lowest bidder.

SEC. 9. That the said Town Council of Hamburg shall have power to arrest and commit to jail for a space of time not exceeding five days, and jail, and how. to fine, not exceeding twenty dollars, any person or persons who may be guilty of disorderly conduct in said town, to the annoyance of the citizens thereof; and it shall be the duty of the Marshal of the town to

A. D. 1871. Fines - how collected.

Proviso.

Street, road nd other

Proviso.

May grant licenses.

Proviso.

Who may be

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A. D. 1871.

make such arrests, and to call to his assistance the posse comitatus, if necessary, and, upon failure to perform said duty, he shall be fined in a sum not exceeding twenty dollars for each and every offence.

SEC. 10. That the said Town Council of Hamburg shall have power to grant or refuse licenses to parties within the limits of said town, and the parties to whom such licenses are granted shall be subject to such regula-May impose tions as may, by ordinances, be established. They shall also have power, in addition to the money collected by licenses, to impose and collect an annual tax upon the assessed property of the said town: Provided, No tax shall be imposed in any one year to exceed the rate of fifteen cents on each hundred dollars of such assessed property, and that the money The said Town Counso raised shall be applied to the use of said town. cil shall have the power to enforce the payment of all taxes levied by

annual tax.

eral State taxes. SEC. 11. That all public property, which was formerly under the control of the Town Council of Hamburg, shall again revert to the Town Council elected under this Act: Provided, Such property is in the cor-

the said Town Council, to the same extent, and in the same manner, as is now, or hereafter shall be, provided by law for the collection of the gen-

porate limits of said town, and intended for public use.

SEC. 12. That the said Intendant and Wardens, in person, or any one of them, may authorize and require any Marshal or any Constable, especially appointed for that purpose, to arrest and commit to the guard Establish - house, (which the said Town Council are hereby authorized to establish,) or to the jail of Edgefield County, for a term not exceeding five days, any person or persons who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or any conduct grossly indecent, or dangerous to the citizens of said town, or any of them.

ment and use of iail.

Town Council to make return to

SEC. 13. That the Town Council shall, within one month after the expiration of their term of office, make out and return to their successors a their success full account of their receipts and expenditures during their term, and shall pay over all moneys in their possession belonging to the corporation, also, deliver all books, records, and other papers incident to their Failure and office, to their successors, and on failure to do so, shall be liable to a fine not exceeding two hundred (200) dollars, to be collected by any proper action by the Town Council.

penalty.

SEC. 14. That this Act shall be deemed a public Act, and shall continue in force for twenty-one years, and until the end of the session of the General Assembly of this State then next following, and all Acts of incorporations, or amendments thereof, repugnant or conflicting with this Act, are hereby repealed.

Approved February 28, 1871.

AN ACT TO RENEW AND AMEND THE CHARTER OF THE TOWN OF MT. No. 329. Pleasant.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-

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bly, and by the authority of the same, That from and after the passage of this Act, all citizens of this State, having resided sixty days in the town of Mt Pleasant, shall be deemed, and are hereby declared to be, a body politic and corporate; and the said town shall be called and known by the name of Mt. Pleasant, and its corporate limits shall be and remain as at present fixed by law.

A. D. 1871.

Name and limits of town

SEC. 2. That the said town shall be governed by an Intendant and SEC. 2. That the said town shall be governed by an Intendant and Intendant seven Wardens, who shall be citizens of the United States, and shall have and Wardens — who eligible been residents of the said town for sixty days immediately preceding their for. election, who shall be elected on the third Wednesday in April in the present year, and thereafter on the same day in every second year, as hereafter provided, ten days' public notice being previously given; and that all male inhabitants of the age of twenty-one years, citizens of the State, and who shall have resided in the said town for sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens.

Electors.

SEC. 3. That the election for Intendant and Wardens of the said town shall be held in the Court House, or some other convenient public place when to be in the said town, from six o'clock in the morning until six o'clock in the afternoon, and when the polls shall be closed, the Managers shall forthwith count the votes and proclaim the election, and give notice, in writing, to

the persons elected.

The Intendant and Wardens shall appoint three Managers to hold the ensuing and subsequent elections. Whenever there shall not be an Intendant and Wardens, or Intendant and Warden, from any cause whatever, it shall be the duty of the Clerk of Court for Charleston County to order such election forthwith, and appoint three Managers for the same. The Managers, in each case, shall, before they open the polls for said election, take an oath fairly and impartially to conduct the same. And that the Intendant and Wardens, before entering upon the duties of their respective offices, shall take the oath prescribed by the Constitution of this State, and also the following oath, to wit: "As Intendant (or Warden) of the town of Mt. Pleasant, I will equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purpose for which I have been elected: So help me God." Intendant and Wardens shall hold their offices from the time of their election until the third Wednesday in April in every second year after their election, and until their successors shall be elected and qualified.

Oath of offi-

SEC. 4. That in case a vacancy shall occur in the office of the Intendant, or any of the Wardens, by death, resignation, removal or otherwise, or in case of a tie in said election, an election to fill such vacancy shall be held by the appointment of the Intendant and Wardens, or Warden, as the case may be, or the Clerk of the Court of Charleston County, if there shall be no Intendant or Wardens, ten days' public notice thereof being previously given; and in case of the sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their number to act in his stead during the time.

Vacancies-

SEC. 5. That the Intendant and Wardens duly elected and qualified Judicial powshall, during their term of service, severally and respectively, be vested with all the jurisdiction and powers of Trial Justice, or other inferior Court, within the limits of said town. And the said Intendant shall, 70

er of officers.

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and may, as often as he may deem necessary, summon the Wardens

to meet in Council, any two of whom, with the Intendant, may consti-

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A. D. 1871.

May impose

Proviso.

Nuisances.

Street, road and other public duty.

Proviso.

Proviso.

tute a quorum to transact business, and they shall be known by the name of the Town Council of Mt. Pleasant, and they and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all the ordinances. And the said Town Council shall have authority Appoint to appoint, from time to time, as they may see fit, such and so many Constables.

Droper persons to act as Marshala and Classical and Constable and proper persons, to act as Marshals and Constables of said town, as the Town Council may deem necessary and expedient for the preservation of the peace, good order and police thereof, which persons, so appointed, shall, within the corporate limits of said town, have the power and privileges and emoluments, and be subject to all the obligations, penalties and regulations provided by law for the office of Constable, and shall be liable to be removed at the pleasure of said Council. And the said Establish a Town Council shall have power to establish, or authorize the establishmarket house ment of the market house in said town. And the said Town Council shall have full power and authority, under their corporate seal, to make all such rules, by-laws and ordinances respecting the roads, streets and market house, and the business thereof, and the police system of said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for preserving health, order and good government within the same. And the said Town Council may impose fines for offences against their by-laws and ordinances, and appropriate the same to the public use of said town. And the said Council shall have the same power which Trial Justices or other inferior Courts now have to compel the attendance of witnesses, and require them to give evidence upon the trial before them of any person for a violation of any of their by-laws or ordinances, but no fine above the sum of twenty dollars shall be collected by said Council, except by suit in the Court of Common Pleas: And provided, also, That no fine shall exceed fifty dollars, and. also, that nothing herein contained shall authorize the said Council to make any by-laws or ordinances inconsistent with, or repugnant to, the laws of this State; and all the by-laws, rules and ordinances the said

> abate and remove nuisances in the said town; and it shall also be their duty to keep all roads, streets and ways within the corporate limits of the said town open and in good repair; and for that purpose they are invested with all the powers heretofore granted to County Commissioners; and shall have full power to classify and arrange the inhabitants of said town liable to street, road, and other public duty therein, and to force the performance of such duty under such penalties as are now, or shall hereafter be, prescribed by law: Provided, That the said Town Council may compound with persons liable to perform such duty, upon such terms, and on the payment of such sums, as may be established by laws or ordinances: And provided, also, That the individuals who compose the said Town Council shall be exempt from the performance of road or public duty, and the inhabitants of said town are hereby exempt from road and public duty without the corporate limits of said town: Provided, further, That the sum so fixed shall not exceed two (2) dollars per

> Town Council shall make, shall, at all times, be subject to revisal or re-

SEC. 6. That the said Intendant and Wardens shall have full power to

peal by the General Assembly of this State.

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Sec. 7. That the power to grant or refuse licenses for billiard tables, to keep taverns, or to retail spirituous liquors within the limits of the said corporation, be, and the same is hereby, vested in the Town Council of fuse licenses. Mt. Pleasant; and the said Council may grant licenses to retail spirituous liquors to such persons, and in such quantities, at such rates, and upon such terms and conditions, as the said Town Council may see fit and proper; and the said Intendant and Wardens shall have the full and only power to impose a tax on all shows or exhibitions for gain or reward within the limits; and all the money paid for licenses for retailing spirituous liquors, keeping taverns and billiard tables, and the tax on all shows for gain or reward, within said limits, shall be appropriated to the public use of said corporation.

SEC. 8. That the said Town Council of Mt. Pleasant shall have full power and authority to require all persons owning a lot or lots in said town to build a lawful fence, and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any of the public streets of said town, if, in the judgment of the Council, such sidewalks shall be necessary, the width thereof, and the manner of their construction, to be designated and regulated by the Town Council; and for default or refusal to keep in repair such sidewalks, the Town Council may cause the same to be put in repair, and require the owner to pay the price of repairing: Provided, That such contract for repairing the same be

let to the lowest bidder.

SEC. 9. That the said Town Council of Mt. Pleasant shall have power to arrest and commit to jail, for a space of time not exceeding twelve hours, and to fine, not exceeding twenty dollars, any person or persons who shall be guilty of disorderly conduct in said town, to the annoyance of the citizens thereof; and it shall be the duty of the Marshal of the town to make such arrest, and to call to his assistance the posse comitatus, if necessary; and, upon failure to perform such duty, he shall be fined

in a sum not exceeding twelve dollars.

SEC. 10. That the said Town Council of Mt. Pleasant shall have power to grant or refuse license to parties within the limits of said town; and the parties to whom such licenses are granted shall be subject to such regulations as may by ordinance be established. They shall, also, have power to impose and collect an annual tax upon the assessed property of said town: Provided, No tax shall be imposed in any one year to exceed the rate of ten cents on each hundred dollars of such assessed property, and that the money so raised shall be applied to the use of the said town. The said Town Council shall have the power to enforce the payment of all taxes levied by the said Town Council, to the same extent, and in the same manner, as is now, or hereafter shall be, provided by law for the collection of the general State taxes.

SEC. 11. That the said Town Council of Mt. Pleasant shall have power to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: Provided, Nothing herein contained shall extend to the sales by a Sheriff, Clerk of the Court, Judge of Probate, Executor or Administrator, Assignee in Bankruptcy, or by any other person, out of the order, decree of any Court, Trial Justice, or other inferior Court.

SEC. 12. All Acts and parts of Acts inconsistent with the provisions of

this Act are hereby repealed.

Approved February 28, 1871.

A. D. 1871.

Grant or re-

Sidewalks.

Proviso.

May commit to jail.

Penalties.

May impose an annual tax.

Regulate

A. D. 1871. AN ACT TO INCORPORATE THE SAVING, BUILDING AND LOAN ASSOCIA-TION OF SOUTH CAROLINA.

No. 330.

oorporated.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Persons in- and by the authority of the same, That T. K. Sasportas, A. J. Ransier, F H Frost, W. H. Jones, Jr., S. A. Swails, B. A. Bosemon, Jr., M J. Hirsch, W. B. Nash, T. D. McDowell, W. J. Whipper, J. H. Rainey and Lucius Wimbush, together with such other persons who now are, or hereafter may be, associated with them, be, and they are hereby, incorporated and declared a body politic and corporate, under the name and style of the "Saying, Building and Loan Association of South Carolina," for the purpose of buying and selling real and personal property, and making loans of money, secured by mortgage of real and personal property.

corporation.

Capital stock.

sand dollars, and consist of twenty-five (25) shares, to be paid in successive weekly installments of two dollars on each share, so long as the corporation shall continue, or by such other contributions as shall be assessed and required by an unanimous vote of all the shareholders, the said shares of to be held, transferred, assigned and pledged, and also to be liable to be forfeited to the corporation, and the holders thereof to be subject to such fines and forfeitures for violation of the constitution, rules and by-laws, and for default of payment of the said contribution, as may be prescribed by the constitution, rules and by-laws of said corporation; and, moreover, the said shares to be disposed of at the death, resignation or removal from

the State of any shareholder, in such manner as may be prescribed by

the said constitution, rules and by-laws.

SEC. 2. That the capital of said corporation shall be twenty-five thou-

Nature shares.

Corporate rights and privileges.

SEC. 3. That the said corporation shall have such number and succession of officers and members as shall be ordained and chosen, according to the constitution, rules and by-laws, as are not repugnant to the Constitution and laws of the land; shall have and keep a common seal, and alter the same at will; shall sue and be sued, plead and be impleaded, in any Court of law or equity in this State; and shall have and enjoy all and every right and privilege incident and belonging to corporate

Investment of capital.

SEC. 4. That the funds of the said corporation may be invested in such property, real or personal, and securities, public or private, loaned to shareholders and members, or other persons or corporations, on such securities, in such mode, on such terms, under such conditions, and subject to such regulations as may be, from time to time, prescribed by the constitution, rules and by-laws of the said corporation; and that it shall, and may be, lawful for the said corporation to take and hold such lands, tenements, hereditaments and personal property, bonds, `stocks, public and private, and choses in action, as they shall acquire by May pur purchase, devise, bequest, gift, assignment or otherwise, to take and hold chase and sell such lands, tenements, hereditaments and personal property, and such stocks and bonds, public or private, or choses in action, as shall be mortgaged, conveyed, assigned or pledged to it, by way of security upon its

loans or advances, or purchased at sales thereof, and to sell, alien, transfer, or otherwise dispose of the same, as, from time to time, the said cor-

poration may deem expedient. Sec. 5. That, semi-annually, on the first days of January and July, there shall be divided, amongst the stockholders of the said corporation,

that the same may be given in evidence without being specially pleaded.

A. D. 1871. the profits accruing from the investment. SEC. 6. That this Act shall be taken and deemed a public Act, and

Approved February 28, 1871.

AN ACT TO INCORPORATE THE CHAMPION HOOK AND LADDER COM-PANY, OF CHESTER.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Crocket Champion, Malachi Grayson, Theodore Boyd, Benjamin Walker, B. F. Michael, Harrison Bailey, John Lee, and their associates and successors, be, and they are hereby, constituted a body corporate and politic, under the name and style of the Champion Hook and Ladder Company, of Chester, with a corporation. capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded, in any Court of privileges. competent jurisdiction, to have and use a common seal, and the same to alter at will and pleasure, and with all other rights, privileges and immunities that are now secured by law to like incorporated bodies.

SEC. 2. That this Act shall be deemed a public Act, and shall remain

in force for the term of fifteen years.

Approved February 28, 1871.

AN ACT TO INCORPORATE THE ROCK HILL HOOK AND LADDER No. 332. COMPANY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Captain E. A. Hutchinson, Captain Iredell Jones, W. M. McCully, M. D. Steele, R. H. McCosh, Charles F. Cohb, P. G. Warden and J. H. William and J. W Charles E. Cobb, P. G. Keesler and J. H. Witherspoon, and their associates and successors, be, and they are hereby, constituted a body corporate and politic, under the name and style of the Rock Hill Hook and Ladder Company, with a capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded, in any Court of competent jurisdiction, to have and to use a privileges. common seal, and the same to alter at will and pleasure, and with all other rights, privileges and immunities that are now secured by law to like incorporated bodies

SEC. 2. This Act shall be deemed a public Act, and shall remain in

force for the term of fourteen years. Approved February 28, 1871.

Persons in-

Name of

Rights and

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AN ACT TO AUTHORIZE CIRCUIT JUDGES TO HOLD COURTS IN OTHER CIRCUITS THAN THEIR OWN.

requisition.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the May hold authority of the same, That a Circuit Judge of any Circuit shall have Court in other power to hold any stated or special term of the Circuit Court in any other Circuit upon the written request of the Circuit Judge of that Cir-

Approved February 28, 1871.

AN ACT TO INCORPORATE THE WHIPPER GUARDS, OF CHRIST CHURCH No. 334. PARISH.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That A. Smith, C. F. Nerthe, T. Ashburn, Enoch Menall, Lloyd Beckett, F. Robinson, B. F. Scott, and their successors and associates, shall be, and they are hereby, incorporated and made and declared a body politic and corporate, in deed and in law, by the name and style of the Whipper Guards, and, as such body politic and corporate, shall Rights and have power to make, use, have and keep a common seal, and the same at will to alter; to make all necessary by-laws, not repugnant to the laws of the land, and to have succession of officers and members, conformable to such by-laws, and to sue and be sued, plead and be impleaded, in any Court of Law or Equity in this State, and to have, use and enjoy all other rights, and be subject to all other liabilities incident to bodies corporate.

Section 1. Be it enacted by the Senate and House of Representatives

privileges.

Sec. 2. That this Act shall be deemed and taken to be a public Act, and shall continue of force for fourteen years from the passage thereof

Approved March 1, 1871.

AN ACT TO INCORPORATE THE SALAMANDER HOOK AND LADDER No. 335. Company, of Georgetown, S. C.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That A. H. Dorril, Frederick Arnholter, Murray Prior, and their associates and successors in office, be, and they are hereby, constituted a body corporate and politic. under the Capital stock. name and style of Salamander Hook and Ladder Company, with a capital stock which shall not exceed the sum of five thousand dollars, with Rights and a right to sue and be sued, to plead and be impleaded, in any Court of competent jurisdiction, to have and to use a common seal, and the same

to after at will and pleasure; and to have and enjoy all other rights,

privileges.

privileges and immunities that are now, or may be hereafter, secured by

A. D. 1871.

SEC. 2. This Act shall be deemed a public Act, and shall continue in force for the term of fourteen years.

Approved March 1, 1871.

law to like incorporated bodies.

AN ACT TO REQUIRE THE STATE TREASURER TO PAY COUNTY TREA-SURERS THE APPORTIONMENT OF THE STATE SCHOOL FUND FOR THEIR RESPECTIVE COUNTIES, AND FOR OTHER PURPOSES.

No. 336.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That within fifteen (15) days after the apportionment, by the State Superintendent of Education, of the State School Fund, and the annual taxes collected by the State, for the support of schools, required by Section 17 of an Act entitled "An Act to establish and maintain a system of Free Common Schools for the State of South Carolina," approved February 16th, 1870, the State Treasurer shall pay the several County Treasurers the apportionment of the fund and to certificate taxes aforesaid belonging to their respective Counties, according to the of Superintendent of Education certificate of the State Superintendent of Education.

Treasurer to

SEC. 2. That the several County Treasurers shall retain all the poll County Treastax collected in their respective Counties; and it is hereby made the urers to reduty of the said County Treasurers, in collecting the poll tax, to keep and keep acan account of the exact amount of said tax collected in each Parish or count of same township in his County; and the poll tax collected therein shall be expended for school purposes in the Parish or Township from which it was collected.

SEC. 3. Any violation of this Act by the State or County Treasurers shall constitute, and it is hereby declared, a misdemeanor; and, on con-penalty. viction thereof, the said State and County Treasurers shall pay a fine of not less than five hundred (500) dollars, nor more than five thousand (5,000) dollars, to be used for school purposes in the County suffering from such violation of this Act, or imprisonment, in the discretion of the Court.

Approved March 1, 1871.

AN ACT TO PROVIDE FOR THE PROTECTION OF PERSONS, PROPERTY No. 337. AND THE PUBLIC PEACE.

Whereas threatenings, intimidation and violence are used in portions of this State against the peace of the same; and whereas the laws are set at defiance, and the officers of the law hindered, prevented and obstructed in the discharge of their duties; and whereas armed, disguised and lawless persons are threatening, maltreating and assassinating peaceable and defenceless citizens; therefore,

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General AssemPreamble.



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A. D. 1870.

Assault, infrom employlitical opinion.

Penalty.

Banding toconspiring sons, &c.

Penalty.

bly, and by the authority of the same, That if any person shall assault or intimidate any citizen because of political opinions or the exercise of political rights and privileges guaranteed to every citizen of the United discharge States by the Constitution and laws thereof, or by the Constitution and ment on ac. laws of this State, or, for such reason, discharge such citizen from employ-count of po-ment or occupation, or eject such citizen from rented house or land or other property, such person shall be deemed guilty of a misdemeanor. and, on conviction thereof, be fined not less than fifty or more than one thousand dollars, or be imprisoned not less than three months or more than one year, or both, at the discretion of the Court.

SEC. 2. That if any two or more persons shall band or conspire together, or go in disguise upon the public highway or upon the premises against per of another, with intent to injure, oppress, or violate the person or property of any citizen, because of his political opinion or his expression or exercise of the same, or shall attempt, by any means, measures or acts, to hinder, prevent or obstruct any citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States, or by the Constitution and laws of this State, such persons shall be deemed guilty of a felony, and, on conviction thereof, be fined not less than one hundred or more than two thousand dollars, or be imprisoned not less than six months or more than three years, or both, at the discretion of the Court; and shall thereafter be ineligible to and disabled from holding any office of honor, trust or profit in this State.

SEC. 3. That if, in violating any of the provisions of this Act, any other crime, misdemeanor or felony shall be committed, the offender or offenders shall, on conviction thereof, be subjected to such punishment for the same as is attached to such crime, misdemeanor and felony by the

existing laws of this State.

Sheriffs, Constables, &c., specially reders.

SEC 4. That the Sheriffs, Constables and other officers in the several Circuits or Counties vested with powers of arresting, imprisoning and quired to pro- bailing offenders against the laws of this State, be, and are hereby, speceed against cially authorized and required to institute proceedings against all and every person and persons who shall violate any of the provisions of this Act, and cause him and them to be arrested, imprisoned or bailed, as the case may require, for a trial before such Court as shall have jurisdiction of the offence.

The Circuit zance.

Sec. 5. That the Circuit Courts of this State, within their respective Courts to Circuits, in the Counties of which the Circuits are respectively composed, have cognized shall have cognizance of all offences committed against the provisions of shall have cognizance of all offences committed against the provisions of this Act, and of all other causes arising under this Act.

Sheriffs and others to execute w

Failure do so.

Penalty.

SEC. 6. That it shall be the duty of all Sheriffs, Constables, and other officers who may be specially empowered, to obey and execute all warrants and other processes issued under the provisions of this Act to them to directed; and should any Sheriff, Constable, or other officer specially empowered, refuse to receive such warrant or other process, when tendered to him, or neglect or refuse to execute the same, he shall, on conviction thereof, be fined in the sum of five hundred dollars, to the use of the citizens deprived of the rights secured by the provisions of this Act, or be imprisoned in the County jail, in the discretion of the Court. better to enable the Sheriffs, Constables, and other officers specially empowered, to execute all such warrants and other processes as may be directed to them, they shall have authority to summon and call to their aid

the by-standers or posse comitatus of the proper County; and all persons refusing to obey the summons or call of the officers thus empowered shall be deemed guilty of a misdemeanor, and, on conviction thereof, be pun-And such warrants and other processes shall run and be executed by said officers anywhere within the Circuit or County in which they are issued.

SEC. 7. That any person who shall hinder, prevent or obstruct any officer or other person charged with the execution of any warrant or other ceres from exprocess issued under the provisions of this Act, in arresting any person ecuting warrants, ec. for whose apprehension such warrant or other process may have been issued, or shall rescue, or attempt to rescue, such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, or shall aid, abet or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons fenders. assisting him, as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for either of said offences, be subject to a fine of not less than fifty, nor more than one thousand dollars, or imprisonment of not less than three months, nor more than one year, or both, at the discretion of the Court having jurisdiction.

SEC. 8. That any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured to him by jured may prosecute the the Constitution and laws of the United States, or by the Constitution County for reand laws of this State, or shall be injured in his person or property be-damages. cause of his exercise of the same, may claim and prosecute the County in which the offence shall be committed for any damages he shall sustain thereby, and the said County shall be responsible for the payment of such damages as the Court may award, which shall be paid by the County pay damages. Treasurer of such County on a warrant drawn by the County Commissioners thereof; which warrant shall be drawn by the County Commissioners as soon as a certified copy of the judgment roll is delivered them for file in their office.

Sec. 9. In all cases where any dwelling house, building, or any property, real or personal, shall be destroyed in consequence of any mob or riot, it shall be lawful for the person or persons owning or interested in such property to bring suits against the County in which such property was situated and being, for the recovery of such damages as he or they indemnified. may have sustained by reason of the destruction thereof; and the amount which shall be recovered in said action shall be paid in the manner provided by Section 8 of this Act.

SEC. 10. That no person or persons shall be entitled to the recovery of such damages if it shall appear that the destruction of his or their prop-damages cannot be recoverty was caused by his or their illegal conduct, nor unless it shall appear ered. that he or they, upon knowledge had of the intention or attempt to destroy his or their property, or to collect a mob for that purpose, and, sufficient time intervening, gave notice thereof to a Constable, Sheriff, or Trial Justice or Justice of the Peace of the County in which such property was situated and being; and it shall be the duty of such Constable, Sheriff, Trial Justice or Justice of the Peace, upon receipt of such notice, to take all legal means necessary for the protection of such property as attacked, or threatened to be attacked; and, if such Constable, Sher-

A. D. 1871.

Rescuing of-

Penalty.

County to

Destruction of buildings.

Owners to be

ing to protect persons to be responsible for damages.

iff, Trial Justice, or Justice of the Peace, upon receipt of such notice. or upon knowledge of such intention or attempt to destroy such property, Officers fail- in any wise received, shall neglect or refuse to perform his duty in the premises, he or they so neglecting or refusing shall be liable for the damages done to such property, to be recovered by action, and shall also be deemed guilty of a misdemeanor in office, and, on conviction thereof, shall forfeit his commission.

Persons injured may sue participator s in mob or riot

SEC. 11. That nothing in this Act shall be construed to prevent the person or persons whose property is injured or destroyed from having and maintaining his or their action against all and every person and persons engaged or participating in said mob or riot, to recover full damages for any injury sustained: Provided, however, That no damages shall be recovered by the party injured against any of the said rioters for the same injury for which compensation shall be made by the County.

County Commissioners

SEC. 12. That it shall be lawful for the County Commissioners of the County against which damages shall be recovered under the provisions may prose. County against which damages shall be recovered under the provisions cute all offens of this Act to bring suit or suits, in the name of the County, against any and all persons engaged, or in any manner participating in said mob or riot, and against any Constable, Sheriff, Trial Justice, or Justice of the Peace, or other officer charged with the maintenance of the public peace, who may be liable, by neglect of duty, to the provisions of this Act, for the recovery of all damages, costs and expenses incurred by said not County, and such suits shall not abate or fail by reason of too many or too few parties defendant being named therein.

Action to abate.

Approved March 1, 1871.

No. 338.

AN ACT to Charter the Town of Yorkville.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Incorporated. and by the authority of the same, That from and after the passage of this Act, all citizens of this State having resided sixty days in the town of Yorkville shall be deemed, and are hereby declared to be, a body politic and corporate, and the said town shall be called and known by the name of Yorkville, and its corporate limits shall extend one mile in each direction from the Court House in said town.

Extension.

SEC. 2. That the said town shall be governed by an Intendant and four Wardens, who shall be citizens of the United States, and shall have been residents of the said town for sixty days immediately preceding their election, who shall be elected on the second Monday in January in every

Electors.

Officers.

year, fifteen days' public notice thereof being previously given; and that all male inhabitants of the age of twenty-one (21) years, citizens of the State, and who shall have resided in the said town for sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens.

Election.

SEC. 3. That the election for Intendant and Wardens of the said town shall be held in the court house, or some other convenient public place in the said town, from nine o'clock in the morning until five o'clock in the afternoon, and when the polls shall be closed, the Managers shall forth-

with count the votes and proclaim the election, and give notice in writing to the persons elected. The Intendant and Wardens shall appoint three Managers to hold the ensuing and any subsequent election. there shall not be an Intendant and Wardens, or Intendant and Warden, from any cause whatever, it shall be the duty of the Clerk of the Court for York County to order such election forthwith, and appoint three Managers for the same. The Managers in each case shall, before they open the polls for said election, take an oath fairly and impartially to conduct the same. And the Intendant and Wardens, before entering upon the duties of their respective offices, shall take the oath prescribed by the Constitution of this State, and also the following oath, to wit: "As Intendant (or Oath of office. Warden) of the town of Yorkville, I will equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected: So help me God." Intendant and Wardens shall hold their offices from the time of their election until the second Monday in January ensuing, and until their successors shall be elected and qualified.

SEC. 4. That in case a vacancy should occur in the office of Intendant or any of the Wardens, by death, resignation, removal, or otherwise, or in case of a tie in said election, an election to fill such vacancy shall be held by the appointment of the Intendant and Wardens, or Warden, as the case may be, or the Clerk of the Court of York County, if there should be no Intendant or Wardens, ten days' notice thereof being previously given; and in case of the sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to act in his

stead during the time.

SEC. 5. That the Intendant and Wardens duly elected and qualified shall, during their term of set vice, severally and respectively, be vested with all the jurisdiction and powers heretofore granted to Magistrates in this State. And the Intendant shall and may, as often as he may deem necessary, summon the Wardens to meet in Council, any two of whom, with the Intendant, may constitute a quorum to transact business, and they shall be known by the name of the Town Council of Yorkville, and they, and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all their ordinances; and the said Town Council shall have aupenalties, &c. thority to appoint, from time to time, as they may see fit, such and so many proper persons to act as Marshals or Constables of said town as the said Town Council may deem necessary and expedient for the preservation of the peace, good order and police thereof, which persons so appointed shall, within the corporate limits of said town, have the power, privileges and emoluments, and be subject to all the obligations, penalties and regulations provided by law for the office of Constable, and shall be liable to be removed at the pleasure of said Council. Town Council shall have power to establish or to authorize the establishment of the market house in said town. And the said Town Council shall have full power and authority, under their corporate seal, to make all such rules, by-laws and ordinances, respecting the streets, roads, market house and the business thereof, and the police system of said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for preserving health, order and good government within the same. And the said Town Council may impose fines for offen-

A. D. 1871. Managers.

Vacancies-

Jurisdiction.

Privileg es,

Rules, by-

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ces against their by-laws and ordinances, and appropriate the same to the public use of said town; and the said Council shall have the same powers which Trial Justices now have to compel the attendance of witnesses, and requiring them to give evidence upon the trial before them of any person for a violation of any of their by-laws or ordinances; but no fine above the sum of twenty dollars shall be collected by the said Council, except by suit in the Court of Common Pleas: Provided, That no fine shall exceed fifty (50) dollars; and, also, that nothing herein contained shall authorize the said Council to make any by-laws or ordinances inconsistent with or repugnant to the laws of this State; and all the by-laws,

rules and ordinances the said Council may make shall at all times be subject to revisal or repeal by the General Assembly of this State.

Nuisances.

Duties.

Proviso.

SEC. 6 That the said Intendant and Wardens shall have full power to abate and remove nuisances in the said town; and it shall be their duty to keep all roads, ways and streets within the corporate limits of said town open and in good repair, and for that purpose they are invested with all the powers heretofore granted to Commissioners of Roads; and shall have full power to classify and arrange the inhabitants of said town liable to street, road, or other public duty therein, and to force the performance of such duty, under such penalties as are now, or shall hereafter be, prescribed by law: Provided, That the said Town Council may compound with persons liable to perform such duty upon such terms, and on the payment of such sums as may be established by law or ordinance:

Licenses

Exemptions. And provided, also, That the individuals who compose the said Town Council shall be exempt from the performance of road and police duty, and the inhabitants of said town are hereby exempted from road and police duty without the corporate limits of said town.

SEC. 7. That the power to grant or refuse licenses for billiard tables, to keep taverns, or to retail spirituous liquors within the limits of said corporation, be, and the same is hereby, vested in the Town Council of Yorkville, and the said Council may grant licenses to retail spirituous liquors to such persons, and in such quantities, at such rates, and upon such terms and conditions as the said Council may deem fit and proper. And the said Intendant and Wardens shall have the full and only power to impose a tax on all shows and exhibitions, for gain or reward, within And all moneys paid for licenses for retailing spirituous the limits. liquors, keeping tavern and billiard tables, and the tax on all shows for gain or reward within said limits, shall be appropriated to the public use within said corporation.

Sidewalks.

SEC. 8. That the said Town Council of Yorkville shall have power and authority to require all persons owning a lot or lots in said town to make and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any of the public streets of said town, if, in the judgment of the Council, such sidewalks shall be necessary, the width thereof, and the manner of construction, to be designated and regulated by the Town Council; and, for default or refusal to make and keep in repair such sidewalks, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing: Provided, That such contract for making or repairing be let to the lowest bidder.

Power to ar-

Sec. 9. That the said Town Council of Yorkville shall have power to arrest and commit to jail, for a space of time not exceeding twelve hours,

and to fine, not exceeding twenty (20) dollars, any person or persons who shall be guilty of disorderly conduct in said town, to the annoyance of citizens thereof; and it shall be the duty of the Marshal of the town to make such arrest, and to call to his assistance the posse comitatus, if necessary; and upon failure to perform said duty he shall be fined in a sum not exceeding one hundred dollars for each and every offence.

SEC. 10. That the said Town Council of Yorkville shall have power to grant licenses to parties within the limits of said town, and the parties to whom said licenses are granted shall pay a sum not exceeding two (2) hundred dollars. They shall also have power to impose and collect an annual tax upon the assessed property of said town: Provided, No tax shall be levied in any one year to exceed the rate of twenty (20) cents on each hundred dollars of such assessed property, and that the money so raised shall be applied to the use of said town. The said Town Council shall have the power to enforce the payment of all taxes levied by the said Town Council, to the same extent, and in the same manner, as is now, or hereafter shall be provided by law for the collection of the general State taxes.

SEC. 11. That the said Town Council of Yorkville shall have power to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: Provided, That nothing herein contained shall extend to sales by a Sheriff, Clerk of the Court, Judge of Probate, Coroner, Executor or Administrator, Assignee in Bankruptcy, or by any other person, out of the order, decree of any Court, Trial Justice, or any other inferior Court.

SEC. 12. That this Act shall be deemed a public Act, and shall continue in force for fourteen years, and till the end of the next session of the General Assembly then next following; and all Acts of incorporation, or amendments thereof, repugnant hereto, are hereby repealed.

Approved March 2, 1871.

AN ACT TO RENEW AND AMEND THE CHARTER OF THE TOWN OF No. 339. Bamberg, in the State of South Carolina.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passage of this Act, all and every person or persons whosoever, members who are constitutionally qualified to vote for members of the General Assembly of the State, and who shall have resided within the present corporate limits of the town of Bamberg for a period of thirty days, and their successors, are hereby declared to be members of said corporation.

SEC. 2. That the said persons and their successors shall, from and after the passage of this Act, become a body politic and corporate, and shall be known and called by the name of the town of Bamberg, and its corporate limits shall extend three-fourths of a mile, in the direction of the cardinal points, from the South Carolina Depot, in said town, as a center.

SEC. 3. That said town shall be governed by an Intendant and four Intendant Wardens, who shall have resided therein for sixty days immediately preto be elected. SEC. 3. That said town shall be governed by an Intendant and four ceding their election. The said Intendant and Wardens shall be elected

A. D. 1871.

Taxation.

Sales at auc-

Proviso.

Who to be corporation.

Limits of corporation.

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Electors.

on the second Tuesday in April in each year, ten days' notice having been previously given, and shall continue in office for one year, and until the election and qualification of their successors; and all male inhabitants of the said town who shall have attained the age of twenty-one years, and resided within said town for a period of thirty days immediately preceding their election, shall be entitled to vote for said Intendant and Wardens

SEC. 4 That the said election shall be held in some convenient public

Election ducted.

how to be con- place in said town, from eight o'clock in the morning until four o'clock in the evening; and when the polls shall be closed, the Managers shall forthwith count the votes and declare the election, giving notice in writing to the persons elected. The Intendant and Wardens, for the time being, shall always appoint the Managers to conduct the election, who, before they open the polls for the said election, shall take an oath to fairly and impartially conduct the same. And the Intendant and Wardens, before entering upon the duties of their office, respectively, shall take the oath prescribed by the Constitution of this State, and the following Oath of om. oath, to wit: "As Intendant (or Warden) of the town of Bamberg, I will equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purpose for which I have been elected: So help me God." And if any person, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay to the said Town Council the sum of twenty dollars: Provided, That no person who has attained the age of sixty years shall be compelled to serve in the said offices, nor shall any other person be compelled to serve more than one year.

Vacancies— how filled.

Sec. 5. That in case any vacancy shall occur in the office of Intendant or any of the Wardens, by death, resignation or otherwise, an election to fill such vacancy shall be held by the appointment of Intendant or Wardens, as the case may be, ten days' previous notice being given; and in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their number to act as Intendant; any three Wardens, constituting a quorum, shall be considered as the Council for the transaction of all business coming before said Town Council.

Judicial pow-ers of officers.

SEC. 6. That the Intendant and Wardens duly elected and qualified, shall be vested with all the powers of a Trial Justice, or Justice of the Peace, within the limits of said corporation The Intendant shall, and may, as often as necessary, summon the Wardens to meet in Council, and they shall be known as the Town Council of Bamberg. And they and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all their Ordinances, may sue and be sued, plead and be impleaded, in any Court of Law or . Equity in this State, and purchase, hold, possess and enjoy to them and their successors, in perpetuity, or for any term of years, any estate, real or personal, or mixed, and sell, alien or convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars. And the Intendant and Wardens shall have full power to make and establish all such rules, bylaws and ordinances, not conflicting with the State laws, for the welfare and benefit of said town; said rules, by-laws and ordinances to be sub-

ject to revisal or repeal by the General Assembly of this State. And said

Capital.

Rules and ordinances.

Council may fix and impose fines and penalties for the violation thereof, and appropriate the same to the public use of said corporation, and are hereby empowered to collect the same in the manner now prescribed by law: Provided, No punishment shall exceed fifty dollars or thirty days' imprisonment.

▲. D. 1871.

Proviso.

SEC. 7. That the Intendant and Wardens of said town shall have full and only power to grant or refuse licenses to keep taverns, or retail spirituous liquors within the corporate limits of said town, upon such conditions as they, by ordinance, may impose: Provided, That no license shall be fixed at a less sum, as now established by the laws of this State, and the moneys so collected shall be used for the benefit of said town, and that the licenses granted shall not extend beyond the term to which said In-

Grant or refuse licenses.

Proviso.

tendant and Wardens shall have been elected. SEC. 8. That it shall be the duty of said Intendant and Wardens to

SEC. 8. That it shall be the duty of said Intendant and Wardens to Street, road keep all roads, streets and ways within the corporate limits open and in and police good repair. They shall have power to compound with all persons subject to road duty in said corporation, and apply said moneys so received to the public use of said town; and all persons refusing or failing, after due summons, to work the roads or pay such commutation, shall be fined in such sums, not exceeding twenty dollars, and in case of their refusal to pay such fine the Town Council may imprison such person or persons for a period, not to exceed ten days, as the Town Council may impose.

SEC. 9. They shall also have power to impose an annual tax not ex- Power to imceeding twenty cents on every hundred dollars of the assessed value of taxes, real and personal estate lying within the corporate limits of said town, the real and personal estate of churches and school associations excepted. The said Council shall have power to regulate the price of licenses upon all public shows and exhibitions in the said town; to erect a powder magazine, and compel any person holding more than twentyfive pounds of powder to store the same therein, and to make regulations for the storage thereof, and for keeping and delivering the same. The said Council shall have power to enforce the payment of all taxes levied enforced. under authority of this Act, against the property and person of all defaulters, to the same extent and in the same manner as is provided by law for the collection of the general taxes, except that executions to enforce the payment of the town taxes shall be issued under the seal of the corporation, and directed to the town Marshal or other person especially appointed by the Town Council to collect the same.

Payment of

Sec. 10. That the said Intendant and Wardens shall have power to elect all such officers as, in their judgment, may be necessary to carry out

the provisions of this charter.

SEC. 11. That the Intendant and Wardens elect shall, during their term of office, be exempt from street or road duty. Each Town Council books, monshall, within thirty days after the expiration of their term of office, make eys, &c., to out and return to their successors, a full account of their receipts and expenditures during their term, and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and papers incidental to their office, and on failure to do so, shall be liable to be fined in a sum not exceeding one hundred dollars, and by im-penalty. prisonment for a period not to exceed sixty days, or both such fine and imprisonment, to be collected in any proper action by the Town Council.

Officers to

Failure and

SEC. 12. That all ordinances heretofore passed by the Town Council of Bamberg, in conformity with the authority granted by such existing laws as do not conflict with the Constitution of the United States and this State, shall be, and they are hereby, declared legal and valid.

SEC. 13. That all Acts and parts of Acts heretofore passed, in relation to the incorporating of the town of Bamberg, be, and they are hereby, re-

pealed.

Sec. 14. This Act shall be deemed a public Act, and shall continue in force until amended, altered or repealed.

Approved March 2, 1871.

No. 340. AN ACT to Authorize Sylvanus Mayo to Build a Wharf in the Town of Beaufort.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Sylvanus Mayo be, and he is hereby, authorized to build a wharf to deep water in front of the property owned by him, in the town of Beaufort, known as lot A, in block thirty-nine (39,) to collect wharfage on the same, and to use, sell or lease the said wharf for his own use and benefit, subject to any laws now existing, or hereafter to be enacted, in relation to such property.

Approved March 2, 1871.

No. 341. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AUTHORIZE THE COMMISSIONERS OF PUBLIC BUILDINGS FOR WILLIAMSBURG DISTRICT TO SELL CERTAIN PORTIONS OF THE PUBLIC GROUNDS," PASSED THE TWENTY-SECOND DAY OF DECEMBER, A. D. 1859.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That so much of an Act entitled "An Act to authorize the Commissioners of Public Buildings for Williamsburg District to sell certain portions of the public grounds," passed the twenty-second day of December, A. D. 1859, as provides that it shall be an irrevocable condition of sale that the purchasers shall erect none other than brick buildings thereon, be, and the same is hereby, repealed.

Approved March 2, 1871.

No. 342. AN ACT TO VEST IN THE CHARLESTON LAND COMPANY THE CHARLESTON, TO THE FORM HAMLIN'S WHARF, IN THE CITY OF CHARLESTON, TO THE FOLLOWING POINTS ON THE WANDO RIVER, TO WIT: SCANLONVILLE, REMLEY'S POINT, VENNING'S LANDING AND DANIEL'S ISLAND LANDING.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-

bly, and by the authority of the same, That a public ferry be, and the same is hereby, established from Hamlin's Wharf, in the city of Charleston, to the following points on the Wando River, to wit: Scanlonville, Remley's Point, Venning's Landing and Daniel's Island Landing; and that the said ferry shall be vested in the Charleston Land Company for the term of twenty years.

SEC. 2. That the said Charleston Land Company shall enjoy the exclusive charter of said ferry, with the privilege of charging not more than Rates of fare fifty cents for each passenger conveyed, and reasonable freight on merchandise: Provided, Said Company shall have said ferry established and in good working order within two years after the passage of this Act.

Proviso.

Approved March 2, 1871.

AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO AL-TER AND AMEND THE CHARTER AND EXTEND THE LIMITS OF THE CITY OF COLUMBIA," APPROVED FEBRUARY 26, 1870.

No. 343.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Mayor and Aldermen of the city of Columbia are hereby authorized and empowered to incorpo- Aldermen to incorpor at e rate the territory added to the former territory of the city of Columbia, by certain terrian Act of the General Assembly of this State entitled "An Act to alter and amend the charter and extend the limits of the city of Columbia," approved February 26, 1870, into the present wards of the said city, as they are now laid out, by extending the lines thereof North and East to Boundaries its present Northern and Eastern boundaries; and the said Mayor and of said territory. they are now laid out, by extending the lines thereof North and East to Aldermen, at the time they incorporate the said newly annexed territory into the existing wards of the said city of Columbia, are hereby authorized and empowered to continue and extend the said streets in straight lines through the lands of any person or persons, companies or corporations, to the present Northern and Eastern boundaries of the said city, of the same width of the old streets: Provided, however, That in carrying out the first Section of this Act in extending the wards of the said city of Columbia, and in the extension of the streets thereof North and East to the Northern and Eastern boundaries, the said Mayor and Aldermen shall conform to the 23d Section of the first Article of the Constitution of this State now of force: And provided, further, That the Act of the General Assembly of this State entitled "An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations may be taken for the construction and use of railways and other works of internal improvement," ratified on the 22d day of September, A. D. 1868, shall be in all respects followed and observed.

SEC. 2. That when the said territory shall have been incorporated into the present wards of the said city, the inhabitants thereof shall be entitled to all the rights and privileges, and be subjected to all the duties and Columbia. liabilities, which now pertain to the corporators of the said city of Columbia, or which may hereafter be created by law.

SEC. 3. That in all cases in which, by existing ordinance, or ordinances of the said city which may hereafter be passed, the Mayor and Alder-

Mayor and

Proviso.

Further pro-

When Mayor and Aldermen may commit to the Work House.

men thereof, or the Mayor alone thereof, have power to impose fines for the violation of the same, the said Mayor and Aldermen, or the said Mayor alone, or any Alderman acting in his stead, are hereby authorized and empowered to impose the alternative punishment of imprisonment or confinement at hard labor in the Work House, whenever such Work House shall be erected: Provided, however, That the term of imprisonment or confinement at hard labor shall not exceed ten days for any sin-

Owners of property make return of the value thereof.

city of Columbia, according to his assessed value thereof; and upon the railure to do failure to make such return and payment as required, the party so in deso, and pen-alty. fault shall be subject to a penalty of ten per cent., to be collected in the manner hereinafter in this Section provided for the collection of taxes,

Executions fines and licenses; and whenever it shall become necessary to issue exefor collection of taxes-how made.

gle offence. SEC. 4. That all persons liable to taxation shall make discovery, upon oath or affirmation, of their taxable property within the said city of Columbia, and make payment of their taxes to the Clerk and Treasurer of said

cutions for the collection of taxes due to the said city of Columbia, and to sell thereunder the real property of the defaulting tax payer, in order to collect the same, the sale thereof shall take place in the same manner and subject to the same regulations as are applicable to sales of real estate by the Sheriff of Richland County under executions issuing out of the Circuit Court of Common Pleas; and all executions to enforce the payment of taxes, fines and licenses shall be issued under the seal of said city of Columbia, and may be lodged in the office of the Sheriff of Richland County, and may be directed to the said Sheriff or to the Chief of Police or other person appointed by the said Mayor and Aldermen to collect and receive the same, with costs, as in such cases made and provided by law; and all property upon which tax shall be levied and assessed is hereby declared and made liable for the payment thereof in preference to all other debts, except debts due to the State, which shall be first paid, for the term of one year from the time at which the same may be assessed Taxes and and levied; and that all taxes and licenses imposed by the Mayor and pay Aldermen of said city of Columbia, shall be payable in advance on or before the fifteenth day of March, after the assessment or said taxes, by the parties liable for the same, and, on failure of payment of the same,

their property shall be liable as in manner and form just before stated.

And for the purpose of putting the purchaser of said real estate into the quiet and immediate possession thereof, if it be necessary so to do, the

or lessors, and all persons whomsoever occupying or holding the said

property: Provided, That the said real property shall not be sold, or the

owner of the fee therein deprived of the same, for a longer period than

SEC. 5 That the Mayor and Aldermen of the said city of Columbia

licenses able in vance.

when war. Mayor of the said city of Columbia is hereby authorized and empowered rants of eject- to issue his warrant of ejectment, directed to the Chief of Police or any ment may be issued, and other officer of the city, against the said defaulting tax payer, his tenants how.

Proviso.

Provisi on 8 for the poor.

are hereby vested with all the power and authority over the poor within the city of Columbia which, by the law, now belong, or may hereafter belong, to the County Commissioners of Richland County over the poor of said County.

Poor tax.

And for the purpose of raising funds to provide for the support and comfort of the said poor, the said Mayor and Aldermen may assess and collect a poor tax on the taxable property of the

two years

use#pd-google http://www.hathitrust.org/access said city, in the same manner as they assess and collect taxes thereon for the support of the city government: Provided, That said tax shall not exceed ten per cent. on the amount of taxes thereon paid to the said city: Provided, further, That the tax payers of the said city of Columbia shall not be taxed for the support of the poor outside of the corporate limits of the said city.

A. D. 1871. Proviso.

SEC. 6. That when any fine imposed by the said Mayor and Aldermen, recovered or by the said Mayor alone, for a violation of any ordinance of the said when more city of Columbia, passed pursuant to law, exceeds forty dollars, the same than \$40—how when less. shall be recoverable in the Circuit Court of Common Pleas for Richland County; and when such fine shall be for forty dollars, or less, the same shall be recoverable before the said Mayor and Aldermen, or before the said Mayor alone: Provided, That in all cases the party so fined by the said Mayor shall have the right of appeal for a hearing to the said Mayor and Alderwen in Council assembled, on giving proper security to the city of Columbia to prosecute said appeal.

Proviso.

Repeal of

Street, road nd other

SEC. 7. That the twelfth Section of an Act of the General Assembly execution, of this State entitled "An Act to alter and amend the charter of the town of Columbia," ratified on the 21st day of December, one thousand eight hundred and fifty-four, which authorizes the Mayor and Aldermen of the said city of Columbia to issue an execution against the body of every person for any sum of money imposed by way of fine, tax or exemption for street or unofficial police duty under the circumstances The said Mayor therein named, be, and the same is hereby, repealed. and Aldermen of the city of Columbia shall have power to abate and remove all nuisances in said city; and it shall be their duty to keep all roads, ways, bridges and streets within the corporate limits of the said and othe public duty. city in good repair; and for that purpose they are invested with all the powers of County Commissioners, or Commissioners of Roads, for and within the corporate limits of said city; and they may lay out new streets, close up, widen, or otherwise alter those now in use, subject, however, to the two provisos contained in the first Section of this Act; and shall have power to class and arrange the inhabitants or citizens of said city liable to street, road or other public duty therein, and to force the performance of such duty under such penalties as are now or shall hereafter be prescribed by their ordinances, passed pursuant to law; and they shall have power to compound with all persons liable to work the streets, ways and roads in said city, upon such terms as their ordinances may establish, or their rules and regulations require; and all persons refusing to labor, or failing to pay such commutation, shall be liable to such fine, not exceeding twenty dollars for any one year, as the said Mayor and Aldermen may impose; and they shall have power to enforce the payment of such fine in the same manner as is provided in the sixth Section of the Act for the collection of other fines. And said Mayor and Aldermen shall have Construction power and authority to require all persons owning a lot or lots in said sidewalks. city, to close in, and to make and keep in good repair, sidewalks in front of said lot or lots, wherever the same shall front or adjoin any public street of said city, if, in their judgment, such sidewalks shall be necessary; the width thereof, and the manner of construction, to be designated and regulated by the said Mayor and Aldermen; and for default or refusal, after reasonable notice, to make and keep in good repair such sidewalk, and to close in such lot or lots, the Mayor and Aldermen may

cause the same to be done, and require the owner to pay the cost of the work; and the said Mayor and Aldermen are hereby empowered to sue for, and recover the same by action, in any Court of competent jurisdiction: Provided, That the contract be let to the lowest responsible

Proviso Licenses.

Sec. 8. That the said Mayor and Aldermen are hereby empowered to require all persons, companies and corporations now engaged, or who may hereafter become engaged in business or avocations of any kind whatever, within the limits of the city of Columbia, to take out a license from the Mayor and Aldermen of the said city, who are hereby authorized to impose a reasonable charge or tax for the conduct of the same.

Assembly.

Repeal of Sec. 9. That all that part of Section 10 of an Act of the General Ascertain Act of sembly of this State entitled "An Act to alter and amend the charter of SEC. 9. That all that part of Section 10 of an Act of the General Asthe town of Columbia," ratified on the 21st day of December, in the year of our Lord one thousand eight hundred and fifty-four, as relates to the imposition of taxes on slaves, free negroes, mulattoes or mestizoes, residing within the limits of the said city, and all other Acts and parts of Acts of the General Assembly of this State relating to the said city, or to the said town of Columbia, before it was incorporated as the city of Columbia, wherein are discriminations for purposes of taxes, or for any other purpose whatever, on account of race or color, be, and the same are hereby, repealed. Sec. 10. That the Mayor may, as often as occasion may require, or

Rules, regu lations and whenever requested so to do, in writing, by three Aldermen, summon the ordinances.

Aldermen to assemble in Council; and the said Mayor and Aldermen shall have, and they are hereby vested with, full and ample power, from time to time, under their common seal, to make all such ordinances, rules and regulations, relative to the streets and markets of the said city, as they may think proper and necessary, and to establish such by-laws, not inconsistent with the laws of the land, as may tend to preserve the quiet, peace, safety and good order of the inhabitants thereof; and the said Mayor and Aldermen, or the said Mayor alone, may fine and impose fines and penalties for violations thereof, which may be recovered in a summary manner, to the extent of forty dollars, before them in Council, or before him alone, subject to the right of appeal, as hereinbefore provided, from the decision of the said Mayor in the premises; and the said Mayor and Aldermen, separately and severally, are hereby authorers or officers. ized to administer oaths, command the peace, disperse riotous assemblies, and, within the limits of the said city, are vested with all the powers and duties which pertain to the officers of the peace in these and like respects throughout the State: Provided, nevertheless, That all such ordinances, by-laws, rules and regulations as are herein mentioned, when so made, shall be duly promulgated, and that no such fine, in any one case, and for any single offence, shall exceed the sum of forty-five dollars.

Judicial pow-

Taxes.

SEC. 11. That every description of property, real and personal, situated, used or occupied within the limits of the said city of Columbia, which is now taxed, or liable to be taxed, or which hereafter may be made liable to taxation, by the General Assembly for the support of the State Government, shall be, and is hereby, made subject to taxation by the Mayor and Aldermen of the said city for the support of the government thereof.

SEC. 12. That an Ordinance entitled "An Ordinance to regulate licenses

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Licenses re-

for the year 1871, passed and ratified by the Mayor and Aldermen of the

said city of Columbia, in Council assembled, on the 30th day of December, A. D. 1870, be, and the same is hereby, declared valid and of full force, to all intents and purposes, according to the letter, tenor and effect thereof, except so much of the said Ordinance as relates to licenses for cotton gins, ginning for toll or pay, dealers, retail, in goods, wares and merchandise, including distilled spirits, hotel keepers, livery and sale stables, the licenses for which shall be as follows: Cotton gins, ginning license on various of trades discovered by the stables, the licenses for which shall be as follows: Cotton gins, ginning license on various trades discovered by the stables of the stables dise, excluding distilled spirits, whose annual sales exceed five thousand tions. dollars and do not exceed ten thousand dollars, twenty dollars; dealers, retail, in goods, wares and merchandise, excluding distilled spirits, whose annual sales exceed ten thousand dollars and do not exceed twenty thousand dollars, forty dollars; dealers, retail, in goods, wares and merchandise, excluding distilled spirits, whose annual sales exceed twenty thousand dollars and do not exceed thirty thousand dollars, fifty dollars; dealers, retail, in goods, wares and merchandise, excluding distilled spirits, whose annual sales exceed thirty thousand dollars and do not exceed fifty thousand dollars, seventy-five dollars; and every additional thousand, per thousand, fifty cents; hotels capable of accommodating one hundred persons, fifty dollars; hotels capable of accommodating less than one hundred and more than fifty persons, thirty-five dollars; hotels

SEC. 13. That all Acts, or parts of Acts, inconsistent with the provisions of this Act, be, and the same are hereby, repealed.

capable of accommodating more than twenty-five and less than fifty persons, thirty dollars; stables, livery and sale, seventy-five dollars: Provided, That there shall be no tax upon incomes derived from factorage, employment and professions: And provided, further, That no penalty imposed by said Ordinance shall attach thereto until thirty days

Approved March 2, 1871.

after the ratification of this Act.

AN ACT TO PERMIT WILLIAM L. WOOD TO ADOPT NAPOLEON B. SMITH, TO MAKE HIM HIS LAWFUL HEIR, AND TO CHANGE THE NAME OF THE SAID NAPOLEON B. SMITH TO THAT OF NAPOLEON B. Wood.

Preamble.

Whereas, William L. Wood, of the County of Laurens, has adopted, with the consent of its parents, a child of the age of seven years, known by the name of Napoleon B. Smith; and, whereas, he is desirous of treating said child, in every respect, as his own, to make him his lawful heir, and to confer upon him his own name; therefore,

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the name of the said Napole on B Smith be changed to Napoleon B. Wood, and that hereafter the ed. said Napoleon B. Smith be known and called Napoleon B. Wood.

Name chang

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No. 344.

A.D. 1871. SEC. 2. That the said Napoleon B. Wood shall hereafter be deemed a legal heir of the said William L. Wood, and shall, upon the death of the N. B. Wood N. B. Wood said Wood, providing he dies intestate, inherit his property in common heir of W.L. with such other legal heirs as the said Wood shall leave at the time of his death.

Approved March 2, 1871.

No. 346. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE COMMON SCHOOLS FOR THE STATE OF South Carolina."

of the State of South Carolina, now met and sitting in General Assemcation-whom to consist of.

Officers.

Board of Edu- bly, and by the authority of the same, That the State Board of Education shall consist of the several County School Commissioners and the State Superintendent of Education, who shall be ex officio Chairman of the Board, and who shall be entitled to vote on all questions submitted The Board may elect one of its members as Secretary. SEC. 2. That the State Board of Education shall hold its first meeting

Section 1. Be it enacted by the Senate and House of Representatives

Meeting of Board.

ceive mileage

at the Capital of the State, on the second Wednesday after the approval of this Act, and shall thereafter meet on the first Wednesday in October of every year, at the Capital of the State, and at such other times and Members of places as the State Superintendent of Education shall direct. bers of the Board shall be entitled to receive a mileage at the rate of twelve (12) cents per mile going to and returning from the meetings of the Board aforesaid, to be paid by the State Treasurer on presentation of a certificate signed by the Chairman and Secretary of the Board.

Sec. 3. That, for the purpose of procuring an uniform system of text-

Commission

to select text books, to be used in the common and public schools throughout the State, there shall be a Commission of five appointed, to consist of His Excellency the Governor, who shall be ex officio Chairman, the Chairman of the Committee on Education of the Senate and House of Representatives, and, for the purpose of selecting the other two members, the Senate shall, by a majority of votes, appoint one, and the House of Representatives shall, in like manner, select the other: Provided, That the Commission herein appointed shall not have power to amend or change the list of text-books already in use until the first of January, 1873, unless authority be granted to the Commission, by Act of the General Assembly, to amend or change the list aforesaid: And provided, further, That the Commission shall decide upon a list of text-books to be used in the common and public schools throughout the State, and shall furnish the same to the Board of Education at its first session. The meetings of the State Board of Education shall be held for the purpose of consider-

Proviso.

as may advance the cause of common school education in this State. SEC. 4. That the School Trustees of every School District shall make out and forward to the School Commissioner of the County wherein such School District is situated a list of all text-books needed by the persons attending school, which list, when properly certified to by said Trustees,

ing such matters as may be deemed necessary, and of taking such action

Superintendent of Edu-cation to fur-nish books free of charge

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the School Commissioner shall approve and forward to the State Superintendent of Education. The State Superintendent of Education shall, as soon as practicable after the receipt of such list, forward the books therein required free of charge. And the General Assembly shall by appropriation provide for the payment of the books aforesaid.

SEC. 5. That the State Board of Education shall take and hold in trust, for the State, any grant or devise of lands, and any gift or bequest of money, or other personal property, made to it for educational purfree schools poses, and shall pay into the State Treasury, for safe-keeping and investmore to b ment, all moneys and incomes from property so received. The State Treasurer shall, from time to time, invest all such money in the name of the State, and shall pay to the State Board of Education, on the warrant of the Governor, the income or principal thereof, as it shall, from time to time, require: Provided, That no disposition shall be made of any grant, devise, gift or bequest inconsistent with the conditions or terms thereof. For the faithful management of all property so received by the State Treasurer he shall be responsible, upon his bond, to the State, as for other funds received by him in his official capacity: Provided, however, That the Trustees of any School District of this State may take and hold schools no hold suc in trust, for their particular School District, any grant or devise of lands, property. and any gift or bequest of money, and apply the same in the interest of the schools of their District, in such manner as, in their judgment, seems most conducive to the welfare of the schools, when not otherwise directed by the terms of the said grant or devise, gift or bequest: And provided, further, That before said Trustees shall assume control of any such grant, devise or bequest, they shall give a bond, to be approved by the School Commissioner of the County in which such grant, devise or bequest is made; said bond to be deposited with the Clerk of the Court of said County.

State Superintendent of Education.

SEC. 6. That the present State Superintendent of Education shall Superintendent of Education shall dent of Education continue in office until the election and qualification of his successor. cation-At the general election in 1872, and every four years thereafter, a State of office. - Superintendent of Education shall be elected, in the same manner as other State officers, who shall enter upon the duties of his office on the first day of January succeeding his election.

SEC. 7. That he shall, before entering upon the duties of his office, give bond, for the use of the State of South Carolina, in the penal sum of five thousand (5,000) dollars, with good and sufficient sureties, to be approved by the Governor, conditioned for the faithful and impartial performance of the duties of his office; and he shall, also, at the time of giving bond, take and subscribe the oath prescribed in Section 30 of Article II of the Constitution of the State, which oath shall be endorsed upon the back of said bond, and the bond shall be filed with, and preserved by, the Secretary of State.

SEC. 8. That the State Superintendent of Education shall receive, as compensation for his services, the sum of twenty-five hundred (2,500) dollars per annum, together with his actual cost of transportation when traveling on public business, payable quarter-yearly out of the State Treasury.

A. D. 1871.

Property managed.

Proviso.

Proviso.

His bond.

Oath.

His salary

His duties generally.

Sec. 9. That he shall have general supervision over all the common and public schools of the State, and it shall be his duty to visit every County in the State, for the purpose of inspecting the schools, awakening an interest favorable to the cause of education, and diffusing as widely as possible, by public addresses and personal communication with school officers, teachers and parents, a knowledge of existing defects and of desirable improvements in the government and instruction of the schools.

Shall secure uniformity of text books.

SEC. 10. That he shall secure uniformity in the use of text-books throughout the common and public schools of the State, and shall forbid the use of sectarian or partisan books and instruction in schools.

Sec. 11. That he shall prepare and transmit to the several County shall furn. SEC. 11. That he shall prepare and transmit to the several County tsh books, &c., School Commissioners, school registers, blank certificates, reports, and to School school blank certificates. commission such other suitable blanks, forms and printed instructions as may be necessary to aid school officers and teachers in making their reports, and carrying into full effect the various provisions of the school laws of this State; and shall cause the laws relating to common schools, with such rules, regulations, forms and instructions as shall be prescribed by the Board of Education, to be printed, together with a suitable index, in pamphlet form, by the person authorized to do the State printing, at the expense of the State; and he shall cause copies of the same to be transmitted to the several County School Commissioners for distribution.

Shall collect books, &c.

Sec. 12. That it shall be the duty of the State Superintendent of Education to collect in his office such school books, apparatus, maps and charts as can be obtained without expense to the State; and also to purchase, at an expense not exceeding fifty dollars a year, rare and valuable works on education, for the benefit of teachers, authors, and others, who may wish to consult them; and the said sum is hereby annually appropriated for this purpose out of any moneys in the State Treasury not otherwise appropriated.

Superintendent may cer-tify to papers on file in his office.

SEC 13. That copies of all papers filed in the office of the State Superintendent of Education and his official acts may be certified by him, and, when so certified, shall be evidence equally and in like manner as the original papers.

SEC. 14. That the State Superintendent of Education shall submit, in his Annual Report, a statement of his official visits during the past

Annual Report of Super-intendent of Education.

Sec. 15. That he shall make a report, through the Governor, to the General Assembly, at each regular session thereof, showing:

1st. The number of persons between the ages of six (6) and sixteen (16) years, inclusive, residing in the State on the first day of the last preceding October.

2d. The number of such persons in each County.

3d The number of each sex. 4th. The number of white. 5th. The number of colored.

6th The whole number of persons that attended the free common schools of the State during the year ending the thirtieth day of the last preceding September, and the number in each County that attended during the same period.

7th. The number of whites of each sex that attended, and the number

of colored of each sex that attended the said schools.

8th. The number of common schools in the State.

9th. The number of pupils that studied each of the branches taught. 10th. The average wages paid to teachers of each sex.

11th. The number of school houses erected during the year, and the

location, material and cost thereof.

12th. The number previously erected, the material of their construction, their condition and value, and the number with their grounds enclosed.

13th. The Counties in which teachers' institutes were held, and the

number that attended the institutes in each County.

14th. Such other statistical information as he may deem important, together with such plans as he may have matured, and the State Board of Education may have recommended for the management and improvement of the school fund, and for the more perfect organization and efficiency of the common schools.

15th. The number and cost of the books furnished to each County School

Commissioner.

SEC. 16. That he shall have power to examine all persons who may make application to him, as to their qualification for teaching school in ine teach ers and issue certhis State; and, that, to all persons of good moral character who pass tificates. a satisfactory examination, he shall issue a certificate of qualification for teaching school in the State of South Carolina, which certificate shall authorize the person to whom it is given to teach in any of the common schools of this State, in which his or her services may be desired by the Trustees of the school in which he or she may make application to teach, without any further evidence of qualification. Said certificate shall be valid for the term of two (2) years, unless sooner revoked.

SEC. 17. That he shall, annually, on the first day of November, or as Shall apportsoon as practicable thereafter, apportion the income of the State school fund. fund, and the annual taxes collected by the State for the support of schools, among the several School Districts of the State, in proportion to the respective number of pupils attending the public schools, and he shall certify such apportionment to the State Treasurer. He shall also certify to the Treasurer and School Commissioner of each County the amount apportioned to their County, and he shall draw his order on the State Treasurer in favor of the County Treasurer of each County for the amount apportioned to said County.

SEC. 18. That there is hereby appropriated, out of any money in the SEC. 18. That there is hereby appropriated, out of any money in the Appropria a State Treasury not otherwise appropriated, the sum of one thousand dol-tion for Clerk hire. lars annually, to the State Superintendent of Education, for the purpose of defraying the expenses of Clerk hire in the office of the said State Superintendent of Education, said sum to be drawn quarterly by him, and to be disbursed by the said State Superintendent, for the purpose herein named: Provided, That the said sum of one thousand dollars shall be in full for the annual payment for all Clerk hire of said Department.

SEC. 19 That the State Superintendent of Education shall discharge for books to such other duties as may be provided by law; and he shall deliver to his successor. successor, within ten days after the expiration of his term of office, all books, papers, documents and other property belonging to his office.

Sec. 20 That in case of vacancy in the office of State Superintendent how filed. of Education, the Governor shall appoint, with the advice and consent of the Senate, a person to fill such vacancy, who shall qualify within

Vaca n c y-

fifteen days after his appointment, and shall continue in office until the next ensuing general election, when a person shall be elected to fill the unexpired term; and should the person so appointed fail to qualify within the time specified, such failure shall create a vacancy.

County School Commissioners.

County School Commissioners.

Sec. 21. That the present County School Commissioners shall continue in office until their successors are elected and qualified. There shall be elected in each County, at the general election in October, A. D 1872, and at the general election every two years thereafter, a School Commis-Term of office sioner, who shall hold his office until his successor is elected and quali-He shall, before entering upon the duties of his office, give bond, for the use of the County in which he is elected, for educational purposes, in the penal sum of twice the amount of his annual salary, with good and sufficient sureties, to be approved by the County Commissioners, conditioned for the faithful and impartial discharge of the duties of his office.

Bond.

Oath of office.

his election, he shall take and subscribe the oath of office prescribed in Section 30, Article II, of the Constitution of this State, which oath he shall file in the office of the Clerk of the Court of the County in which he was elected, and shall immediately enter upon the discharge of his duties, and, upon his failure so to do, or if for any other cause there should be a vacancy in the office, the Governor shall appoint a person to fill such vacancy, who shall qualify within fifteen days after his appointment, and shall continue in office until the time prescribed for filling said office by election, as herein provided; and should the person so appointed fail to qualify within the time specified, such failure shall create a vacancy.

Sec. 22. That on the first day of January next succeeding the date of

how filled.

Vacan c y -

Shall visit schools give advice to teachers.

SEC. 23. It shall be the duty of each County School Commissioner to visit each of the schools in his jurisdiction at least three times a term, and to note the course and method of instruction, and the branches taught, and to give such recommendations in the art of teaching, and the method thereof, in each school, as shall be necessary and expedient, so that uniformity in the course of studies and methods of instruction employed shall be secured, as far as practicable, in the schools of the several grades respectively. He shall acquaint himself, as far as practicable, with the character and condition of each school, noting any deficiencies that may exist, either in the government of the school, or the classification of its pupils, or the method of instruction employed in the several branches, and shall make such suggestions, in private, to the teachers, as to him shall appear necessary to the good order of the school, and the progress of the pupils.

He shall note the character and condition of the school houses, the sufficiency or insufficiency of the furniture, and shall make such suggestions to the several District Boards as, in his opinion, shall seem conducive to the comfort and progress of the pupils of the several schools. It shall be the duty of each County School Commissioner to aid the teachers in all

proper efforts to improve themselves in their profession.

Shall encourage for-mation of associations.

For this purpose, he shall encourage the formation of associations of teachers for mutual improvement; he shall attend the meetings of such associations, and give such advice and instruction in regard to their conduct and management as, in his judgment, will contribute to their greater

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efficiency. He shall, also, deliver a public lecture to the people in each of the several Districts of the County each year, for the purpose of elevating the standard of education, and increasing the general interest of the ture. people in public schools.

A. D. 1871. Public lec-

SEC 24. That it shall be his duty to see that in every school under his be taught. care there shall be taught, as far as practicable, orthography, reading, writing, arithmetic, geography, English grammar, history of the United States, the principles of the Constitution and Laws of the United States and of

Branches to

this State, and good behavior.

SEC. 25. He shall, on or before the first day of October, each year, forward to the State Superintendent of Education an extended report, containing an abstract of the reports made to him by the various school officers and teachers in his County, and showing the condition of the schools under his charge, suggesting such improvements in the school system as he may deem useful, and giving such other information in regard to the practical operation of the common schools, and laws relating thereto, as may be deemed of public interest. He shall also include, in his report, such other matters as he shall be directed to report by the State Superintendent of Education

SEC 26. That, should be fail to make the annual report required in failing to the preceding Section, he shall forfeit to the school fund of his County report. his last quarter's salary of that year, and shall also be liable for all damages caused by such failure.

Sec. 27. That he shall, at all times, conform to the instructions of the State Superintendent of Education, as to matters within the jurisdiction of said Superintendent. He shall serve as the organ of communication between the said State Superintendent and school authorities. transmit to school officers, or teachers, all blanks, circulars, and other communications which are to them directed.

SEC 28. That each County School Commissioner shall receive as compensation for his services, including expenses of transportation within ers. his County, an annual salary of one thousand (1,000) dollars, except the County School Commissioner of Charleston County, who shall receive an annual salary of twelve hundred (1,200) dollars, payable quarterly by

Sec. 29. The County Treasurer shall pay over all moneys by him received, which shall have been assessed by virtue of the vote of any dis-trict meeting, as hereinafter provided for, in the County in which such trict meet-District is situated, on the order of the Clerk of the Board of Trustees of said District, countersigned by the County School Commissioner, to be used for the purpose directed by the District meeting so held. Said money shall be assessed and collected at the time, and in the manner that County taxes are assessed and collected; and if the inhabitants of any School District, at their annual District meeting, shall fail to provide for the raising of such tax, then the County School Commissioner of the state appro-County in which such District is situated, shall be required to withhold priation with-from said District that part of the State appropriation derived from the held for failrevenue of the State, and to apportion and distribute the same to the other Districts of the County which have complied with the requirements of this Act: Provided, That in School Districts where there are less than one hundred children between the ages of six and sixteen, the inhabi-

tants may raise such a sum, per child, as will be sufficient to maintain their schools.

County Comtricts.

SEC. 30. That it shall be the duty of each County School Commismissioners sioner, immediately after the passage of this Act, to divide his County shall create into convenient School Districts, for all purposes connected with the general interest of education, and re-District the same, whenever, in his judgment, the general good requires it. And every School District organized in pursuance of this Act, shall be a body politic and corporate, by the name and style of School District No. —, (such a number as may be designated by the County School Commissioner,) of ———— County, (the name of the County in which the District is situated,) State of South Carolina, and in that name may sue and be sued, and be capable of contracting and being contracted with, and holding such real and personal estate as it may come into possession of, by will or otherwise, or as is authorized to be purchased by the provisions of this Act, all of which shall be used exclusively for school purposes. Each School District shall be confined to the management and control of the Board of School Trustees hereinafter provided for, who shall hold their office for two (2) years, and until their successors are appointed and qualified, and the said Trustees shall be exempt from militia and road duty, and payment of poll tax.

County Board of Examiners.

SEC. 31. That there shall be, in each County, a Board of Examiners, composed of the County School Commissioner, who shall, ex officio, be Chairman, and two other members, who shall be appointed by the County School Commissioner—shall hold office for the term of two years from the time of their appointment; but no person shall be appointed a member of the County Board of Examiners, who is not competent to teach a first grade school.

Shall issue certificate.

It shall be the duty of the County Board of Examiners to examine all candidates for the profession of teacher, and to give to each person found qualified a certificate, setting forth the branches of learning he or she may be capable of teaching. Such examination to be renewed every year, and no teacher shall be employed in any of the common or public schools, without a certificate from the County Board of Examiners, or the State Superintendent of Education.

Meetings of

SEC. 32. That the Board of County School Examiners shall meet at least twice a year, at such places, and at such times, as the County School Commissioner shall appoint; that the County School Commissioner shall be Chairman and Clerk of the Board, and shall keep a fair record of their proceedings, and a register of the name, age, sex, color, residence and date of certificate of each person to whom certificate is issued, and in case a certificate be cancelled, shall make a proper entry of the same.

Appointment of School Trustees.

SEC. 33. It shall be the duty of each County Board of School Examiners to appoint for each and every School District in their County three School Trustees, who shall hold their office for two years, whose duty shall be as hereinafter prescribed; and they shall have power to fill, from time to time, all vacancies which may occur in their respective School Districts in Boards of School Trustees in their County.

Oath.

SEC. 34. That the said Trustees, within fifteen (15) days after their appointment, shall take an oath or affirmation faithfully and impartially to discharge the duties of their office, which oath the members are authorized to administer to each other.

SEC. 35. That it shall be the duty of the said Trustees, any two of

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whom shall constitute a quorum, to meet as soon and often as practicable, after having been appointed and qualified, at such place as may be most convenient in the District, and at their first meeting they shall organize of the Board by appointing one of their number Clerk of the Board, who shall pre- of Trustees. side at the official meetings of the Trustees, and shall record their proceedings in a book provided for that purpose. Each member of the Board of Trustees shall be duly notified of all meetings by the Clerk of the Board.

SEC. 36. That it shall be the duty of the Trustees in each School District to take the management and control of the local educational in-the schools and control terests of the same, subject to the supervision of the County School Com-the interests missioner, and to visit the school at least once in every month during the of the same. school term.

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SEC. 37. That it shall be the duty of the Trustees in the several School Districts to make, or cause to be made, once in two years, in each School District, by the first day of September, an enumeration of all the children between the ages of six (6) and sixteen (16) years, resident within such School District, distinguishing between male and female, white and colored; and the Clerk of said Board of Trustees shall return to the County School Commissioner a duplicate return of the same. School Trustee shall receive five (5) cents per capita for each child ton for such enumerated by him; the account for which shall be audited by the enumeration. County School Commissioner, and paid, according to law, by the County Treasurer, out of the school fund of the School District wherein the enumeration was made: Provided, That in case the enumeration of the scholastic population of any School District is not made, as provided for in this Act, by that time, the County Board of School Examiners is herewith authorized to appoint new Trustees for such School District, unless for good and sufficient cause the Trustees have failed to act.

Enumera tion of chil-

Proviso.

SEC. 38. It shall be the duty of the Board of Trustees to hold a regular session in their School District at least two weeks before the com-when and mencement of any or every school term, for the transaction of any and how often to all business necessary to the prosperity of the school, with power to adjourn, from time to time, and to hold special meetings at any time or

SEC. 39. That the Board of Trustees shall have power to establish and make all arrangements for the common schools of Districts, and to make lish schools, the same comfortable, paying due regard to any school house already teachers have built, or site procured, as well as to all other circumstances proper to be ing certificonsidered, so as to best promote the educational interest of their District. They shall employ teachers from among those having certificates, and discharge the same when good and sufficient reasons for so doing present themselves; but they shall employ no person to teach in any of the schools under their supervision unless such person shall hold, at the time of commencing his or her school, a certificate to teach, granted by the County Board of School Examiners, or by the State Superintendent of Education.

Shall estab-

SEC. 40. That should the Board of Trustees be unable otherwise to procure sites for school houses, they are hereby authorized to appoint a jury school houses of view of five (5) legal voters of the County, who shall locate said site as procured. the public interest may require; but, except in a city, town or village, said site shall not be located within two hundred (200) yards of the dwelling of the owner of the land taken for said site without his consent, given in

writing. The said jury shall assess the value of the same, and report their action to the Board of Trustees, who shall secure the title and pay for the site, as decided by the jury of view, out of any moneys available for that purpose; and, upon such payment, the title shall immediately vest in the Trustees and their successors in office.

Penalty for SEC. 41. That if any person or persons shall threaten, or in any maninterference ner interfere with the jury of view herein directed to be appointed, while discharging the duties herein prescribed, he or they, separately or conjointly, shall be deemed guilty of a misdemeanor, and, on conviction in any Court of competent jurisdiction, be fined not more than two hundred dollars, or be imprisoned not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the Court; and any moneys accruing from such fines shall be added to the school fund of the School District wherein the guilty party or parties reside.

Transfer of scholars-how supported.

SEC. 42. That when it shall so happen that persons are so situated as to be better accommodated at the school of any adjoining School District, or whenever it may be desirable to establish a school composed of parts of two or more School Districts, it shall be the duty of the respective Boards of Trustees of the School Districts in which such persons reside, or in which such schools may be situated, or of the School Districts, or the parts of which the school is to be composed, to transfer such persons for education to the School District in which such school house is or may be located; but the enumeration of scholars shall be taken in each District as if no such transfer had been made; and such school, when so composed, shall be supported from the school funds of the respective School Districts from which the scholars may have been transferred.

Length of school year.

SEC. 43. That the school year shall continue for a period of nine months, commencing and ending as, in the opinion of the County Board of Examiners, will best subserve the educational interest of their County, but the County School Commissioner shall have power to limit the school year, according to the school fund apportioned to his

Duties o f teachers.

SEC. 44. That it shall be the duty of each school teacher to make out and file with the Clerk of the Board of Trustees, at the expiration of each school month, a full and complete report of the whole number of scholars admitted to the school during each month, distinguishing between male and female, the average attendance, the branches taught, the number of pupils engaged in each of said branches, and such other statistics as he or she may be required to make by the County School Commissioner; and until such report shall have been certified and filed by the said teacher, as aforesaid, it shall be the duty of said Board of Trustees to require the same, and forward to the County School Commissioner, before said teacher can draw pay for his or her services. On the filing of the teacher's report, the Clerk of the Board of Trustees shall draw an order in duplicate on the County Treasurer for the amount due each teacher, which order shall be countersigned by the County School Commissioner, who shall file the duplicate in his office.

SEC. 45. That the State Superintendent of Education, or any County School Commissioner, or School District Board of Trustees, may receive, in behalf of the State Board of Education, any gift, grant, donation or devise of any school house, or site for a school house, or library for the

use of any school or schools, or other school purposes within the State, and are hereby invested with the care and custody of all school houses, sites, or other property belonging to the State Board of Education within the limits of their jurisdiction, with full power to control the same in such manner as they may think will best subserve the interests of common schools and the cause of education, subject to the control of the State Board of Education.

A. D. 1871.

Charleston City Board of School Commissioners.

SEC. 46. That it shall be the duty of the School Commissioner of Duties of the Charleston County to organize, in all those Districts outside of the city School Commissioner of of Charleston, formerly known as Parishes, a suitable number of schools, Charleston County. as soon as practicable after the passage of this Act. He shall also visit said schools not less than three times during each year, and shall perform such other duties as are prescribed for County School Commissioners in Upon failure or neglect to discharge the duties imposed upon him by this Section, when reported to the State Superintendent of Education, the said State Superintendent is hereby empowered to take such measures as, in his judgment, may be necessary to enforce the faithful performance of duty on the part of said School Commissioner.

SEC. 47. The School Commissioner of the County of Charleston shall Jurisdiction. have jurisdiction only over the schools and all educational interests out-

side of the corporate limits of the city of Charleston.

SEC. 48. That at the next regular muncipal election in the city of Charleston, and at every regular municipal election held thereafter, one School Board School Commissioner shall be elected by the legal votes of each ward, who shall continue in office until his successor is elected and qualified. The School Commissioners so elected shall constitute a School Board, and they may assemble at any time and elect a Chairman and Clerk, and Superintendent of City Schools, whose term of office, duties and compensation shall be prescribed by said Board, but his term of office shall not exceed that of the Board electing him The duties of the Board aforesaid shall be the same as those of the Board of School Trustees for the several School Districts, in addition to which they shall, on or before the first day of October, forward to the State Superintendent of Education an annexed report of all matters connected with the school interests of the city of Charleston, as are required of each County School Commissioner. They shall also have power to levy and cause to be collected, as other city taxes are, a sum not to exceed one and one-half of one mill on the dol- a tax. lar on all taxable property in said city of Charleston; and the money so collected shall be placed in the City Treasury, subject to the order of said City Board of School Commissioners.

Sec. 49. An annual meeting of each School District shall be held on the last Saturday of June, of each year, at 12 o'clock M., notice of the meetings time and place being given by the Clerk of the Board of Trustees, by held. posting written or printed notices in three public places of the District at least ten days before the meeting.

Special meetings may be called by the Board of Trustees, or by a majority of the legal voters of the District; but notice of such special District meetmeeting, stating the purposes for which it is called, shall be posted in at least three public places within the District, ten days previous to the time

Charles ton -how elected

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Purpose

of such meeting. And no business shall be acted upon at any special meeting not specified in said notice. SEC. 50. The following persons shall be entitled to vote at any Dis-

Qualifica tions of elec- trict meeting, viz:

All persons possessing the qualifications of electors, as defined by the Constitution of this State, and who shall be residents of the District at

the time of offering to vote at said meeting.

Powers of a

SEC. 51. The inhabitants qualified to vote at a school meeting, lawfully school meet- assembled, shall have power:

1st. To appoint a Chairman to preside over said meeting.

2d. To adjourn from time to time.

3d. To choose a Clerk, who shall possess the qualification of a voter.

4th. To raise by tax, in addition to the amount apportioned by the State to their use, such further sums of money as they may deem proper for the support of public schools, said sum not to be more than three dollars for every child in the District between the ages of six and sixteen, as ascertained by the last enumeration, said sum to be collected by the County Treasurer, and to be held by him subject to the order of the Trustees, countersigned by the County School Commissioner, such sums of money to be used as shall be agreed upon at the meeting, either for the pay of teachers' salaries or to purchase or lease sites for school houses; to build, hire or purchase such school houses; to keep them in repair, and furnish the same with necessary fuel and appendages; or to furnish black-boards, outline maps and apparatus for illustrating the principles of science, or to discharge any debts or liabilities lawfully incurred.

5th. To give such direction and make such provisions as may be deemed necessary, in relation to the prosecution or defence of any suit or pro-

ceeding in which the District may be a party.

6th. To authorize the Board of Trustees to build school houses, or rent the same; to sell any school house site, or other property belonging to the District, when the same shall no longer be needed for the use of the District.

7th. To alter or repeal their proceedings, from time to time, as occasion may require, and to do any other business contemplated in this Act.

SEC. 52. That an Act entitled "An Act to establish and maintain a system of free common schools for the State of South Carolina," approved February 18, 1870, be, and the same is hereby, repealed.

Sec. 53. That this Act shall take effect from its passage.

Approved March 6, 1871.

AN ACT TO INCORPORATE THE CHARLESTON RIFLEMEN CLUB No. 347.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Declared a and by the authority of the same, That the Charleston Riflemen Club, of corpo- Charleston, and the several persons who now are, or hereafter may be, officers and members thereof, and their successors, officers and members, be, and they are hereby, declared to be a body corporate and politic, by the name and style of the Charleston Riflemen Club.

SEC. 2. That the said corporation hereby created and established, shall have succession of officers and members, according to its by-laws, and shall have power to make all necessary by-laws not repugnant to the laws rights a of the land, and to have, use and keep a common seal, and the same to privileges. alter at will, to sue and be sued, plead and be impleaded in any of the Courts of this State, and to have and enjoy every right, power and privilege incident to such corporation; and it is hereby empowered to take, hold, retain, possess and enjoy all such property, real and personal, as it may acquire by purchase, right, devise or bequest, or in any other manner, whatsoever, and the same, or any part thereof, to sell, alien, incumber, mortgage, or convey, at the will and pleasure of such corporation: Provided, That the amount of property, real and personal, so held, shall

not, at any one time, exceed the sum of ten thousand dollars.

SEC. 3. That this Act shall continue in force for the space of fourteen years, and until the meeting of the next General Assembly thereafter, and that the same be taken and deemed a public Act, and may be given in

evidence without being specially pleaded.

Approved March 6, 1871.

A. D. 1871.

Corporate

May hol property.

Amount.

No. 348.

AN ACT TO ALTER AND RENEW THE CHARTER OF THE TOWN OF DAR-LINGTON.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to incorporate certain towns and villages," approved on the 28th day of January, A. D. one thousand eight hundred and sixty, be, and the same is hereby, altered and amended as follows, to wit: That from and after the passage of this Act, all and every person or persons, who shall have resided in the corporate limits of the village of Darlington for two months, are hereby declared to be members of the corporation hereby to be created.

Sec. 2. That the said persons shall, from and after the passage of this Act, become a body politic and corporate, and shall be known and called by the name of the "Town of Darlington," and its corporate limits shall town. extend one and one-half mile from the Court House, except on the North, North East, East and North-West sides, which shall be bounded by Swift Creek and Indian Branch.

SEC. 3 That the said town shall be governed by an Intendant and four Wardens, who shall have resided in the State for one year, and within and wardens. the limits of the corporation for sixty days immediately preceding their election. The said Intendant and Wardens shall be elected on the second when Monday of the month of April in each year, ten days' notice being pre-elected. viously given, and shall continue in office one year, and until the election and qualification of their successors; and all male inhabitants of the said town, who shall have attained the age of twenty-one years, and resided therein two months immediately preceding the election, shall be entitled to vote for said Intendant and Wardens.

Limits of

Intendant

How and hen to be,

Electors.

72

-~-Election when to be

SEC. 4. That the said election shall be held in some convenient public place in said town, from six o'clock in the morning until six o'clock in the evening, and when the polls shall be closed the Managers shall forthwith count the votes and declare the election, giving notice in writing to the persons elected. The Intendant and Wardens, for the time being, shall always appoint the Managers to conduct the election, who, before they open the polls for the said election, shall take an oath fairly and impartially to conduct the same; and the Intendant and Wardens, before entering upon the duties of their offices, respectively, shall take the oath prescribed by the Constitution of this State, and also the following oath, to wit: Oath of omce. "As Intendant (or Warden) of the town of Darlington, I will equally and

impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected: So help me God." And if any person, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay to said Town Council the sum of twenty dollars for the use of said town: Provided, That no person, who has attained the age of sixty years, shall be compelled to serve more than one year in any term of three years.

Vacan c y how filled.

Sec. 5. That in case any vacancy should occur in the office of Intendant or any of the Wardens, by death, resignation or otherwise, an election to fill such vacancy shall be held by the appointment of Intendant or Warden (or Wardens, as the case may be,) ten days' previous notice being given, and in case of siekness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their own number to act as Intendant during the time.

Judicial powers.

Town Council, and their powers and privileges.

Capital.

By-laws, rules and regulations.

SEC. 6. That the Intendant, or acting Intendant, after being duly elected and qualified, shall, during his term of service, be vested with all the powers heretofore granted in this State to Magistrates. And the Intendant shall and may, as often as may be necessary, summon the Wardens to meet in Council, any two of whom shall, with the Intendant, or any three Wardens, constitute a quorum to transact business, and they shall be known by the name of the Town Council of Darlington; and they and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all their ordinances, may sue and be sued, may plead and be impleaded, in any Court of law or equity in this State, and purchase, hold, possess and enjoy to them and their successors, in perpetuity, or for any term of years, any estate, real or personal or mixed, and sell, alien or convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars And the Intendant and Wardens shall have full power to make and establish all such rules, by laws and ordinances respecting the roads, streets, market and police of said town as shall appear to them necessary and requisite for the security, welfare and convenience of said town, or for preserving health, order, peace and good government within the same. And all the by-laws, rules and ordinances the said Council may make shall, at all times, be subject to revisal or repeal by the General Assembly of this State. And the said Council may fix and impose fines and penalties for the violation thereof, and appropriate the same to the public uses of said corporation: Provided, That no punishment shall exceed fifty dollars, or thirty days' imprisonment.

SEC 7. That the Intendant and Wardens of said town shall have full

L'censes.

and only power to grant or refuse licenses to keep taverns or retail spirituous liquors within the corporate limits of said town, upon such conditions, and under such circumstances, as to them shall seem right and proper: Provided, That, in no instance, shall the price of a license to keep tavern or to retail spirituous liquors be fixed at a less sum than is established by the laws of this State; and all moneys paid for licenses, and for fines and forfeitures, for retailing spirituous liquors, keeping tavern and billiard tables within the said limits without licenses, shall be appropriated to the public uses of said town: Provided, That the Intendant and Wardens duly elected and qualified shall not have power to grant any license to keep taverns or retail spirituous liquors to extend beyond the term for which they have been elected.

SEC. 8. That it shall be the duty of the Intendent and Wardens to keep all roads, streets and ways within their corporate limits open and in good repair. They shall have power to compound with all persons liable to work the streets, ways and roads in said town, upon such terms as they, by ordinance, shall establish, the moneys so received to be applied to the public use of said town; and all persons refusing or failing to pay such commutation shall be liable to such fine, not exceeding twenty dol- lic labor.

lars, as the Town Council may impose.

SEC. 9. The said Town Council shall have power to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: Provided, Nothing herein contained shall extend to sales by Sheriff, Clerk of Court, Judge of Probate, Coroner, Executor or Administrator, Assignee in Bankruptcy, or by any of the persons out of the order, decree of any Court, Trial Justice, or other inferior Court.

Sec. 10. They shall also have power to impose an annual tax, not exceeding fifty cents on every hundred dollars of the assessed value of real and personal estate lying within the corporate limits of said town, the real and personal estate of churches and school associations excepted. The said Council shall have power to regulate the price of licenses upon all public shows and exhibitions in the said town, to erect a powder magazine, and to compel any person holding more than twenty-five pounds of powder to store the same therein, and to make regulations for the rates of storage thereof, and for keeping and delivering the same. The said Council shall have power to enforce the payment of all taxes levied under authority force the payment of taxes. of this Act, against the property and person of all defaulters, to the same extent, and in the same manner, as is provided by law for the collection of the general taxes, except that executions to enforce the payment of the town taxes shall be issued under the seal of the corporation, and directed to the Town Marshal or other person especially appointed by the Town Council to collect the same; and all property upon which a tax shall be levied is hereby declared and made liable for the payment thereof in preference to all other debts against the said property, except debts due to the State, which shall be first paid.

SEC. 11. That the said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within the town as they shall deem necessary, by the sale of the freehold therein, either at public or private sale, as they may adjudge best for the interest of the said town; and they shall have power to lay out, adopt, open and keep in repair, all such new streets, roads and ways in the town as they may deem necessary for the improvement and convenience of the

A. D. 1871.

Proviso.

Roads streets, &c.

May impose an annual tax.

Powder

How to en-

New streets

said town: Provided, That no new street, road or way shall be opened without first having obtained the consent of the land owner or owners through whose premises any such new street, road or way may pass.

Appoint Constables.

SEC. 12. That the said Town Council shall have power, and are hereby authorized, to elect three or more Marshals, (in addition to the Sheriff of Darlington, who shall also be a Marshal of the said town,) to fix their salaries and prescribe their duties, who shall be sworn in and invested with all the powers, and subjected to all the duties and liabilities that Constables now have or are subjected to by law, in addition to the duties and liabilities specially conferred and imposed upon them by the Town Council: Provided, That their jurisdiction shall be confined within the limits of the said town.

Market house

SEC. 13. That the said Town Council shall have power to erect a market house, and provide regulations for the same: Provided, That no market house is erected upon the public squares, so as to endanger by its proximity or the material of which it is constructed, any other public building, and they shall also have power to establish a guard house, and to prescribe, by ordinance, suitable rules and regulations for keeping and governing the same; and until such guard house shall be established, they shall be authorized to use a room in the common jail of Darlington Their pow- County for the confinement of all persons who may be subject to be com-ers for pre-serving order mitted for violation of any ordinance of the town, passed in conformity to public the provisions of this Act; and the said Town Council may, by ordinance, or the said Intendant and Wardens in person, any one or more of them, authorize and require any Marshal of the town, or any Constable specially appointed for that purpose, to arrest and commit to said guard house or jail of Darlington County, as the case may be, for a term not exceeding twenty-four hours, any person or persons who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or in any conduct grossly indecent or dangerous to the citizens of the said town, or any of them; and it shall be the duty of the Marshals to arrest and commit all such offenders, when required to do so, who shall have power to call to their assistance the posse comitatus, if need be, to aid in making such arrests; and upon failure of the Town Marshal to perform such duty as required, they shall, severally, be subject to such fines and penalties as the Town Council may establish; and all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said costs and expenses shall be collected in the same manner as provided by this Act for the collection of fines imposed for violation of ordinances: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose for the offence for which he may have been committed.

peace.

Proviso.

SEC. 14. That the said Town Council shall have the power to collect the taxes from all persons representing publicly, within the corporate limits, for gain or reward, any plays or shows, of any kind whatever, to be used for the purpose of said town.

Disposition of fines.

SEC. 15. That all the fines which shall hereafter be collected for retailing without license within the corporate limits of the said town, shall be paid, one-half to the informer, and the other half to the Counci, for the use of the said town.

SEC. 16. That the said Town Council shall have power to abate all

nuisances within their corporate limits, and also to appoint a Board of Health for said town, and to pass such ordinances as may be necessary to define the duties and powers of said Board, and to impose fines and penalties upon the members of the said Board for neglect of duty or refusal to serve: Provided, That no fine hereby authorized to be imposed penalties. shall exceed the sum of twenty dollars. The said Town Council of Darlington shall have power and authority to require the owner or owners of any lot or lots in the said town to keep the streets in front of the said lot or lots clean of all filth and rubbish, and also to make and keep in good repair sidewalks in front of said lot or lots where the same shall front on or adjoin any of the public streets of the said town, if, in the judgment of the said Town Council, such sidewalks shall be necessary; the width thereof, and the manner of their construction, to be designated and regulated by the said Town Council; and for default or refusal on the part of such owner or owners to keep the said streets clean, or to make and keep in repair such sidewalks, whenever required, the said Town Council may cause the said streets to be cleaned, or such sidewalks to be made and kept in repair, and require such owner or owners to pay the costs and expenses thereof: Provided, however, That contracts for cleaning the said streets, making and putting in repair such sidewalks, shall be let to the lowest bidder.

A.D. 1871.

Abate' nui-Fines and

Sidewalks.

Proviso.

SEC. 17. That the said Town Council shall have power to borrow money for the public use of the corporation, by issuing, from time to cil may bortime as occasion may require, the bonds of the corporation, bearing interest at a rate not to exceed seven per centum a year, to be paid semi-bonds. annually, for an amount not to exceed five thousand dollars; and for the payment of the interest and the ultimate redemption of the principal, according to the terms of the loan, the said corporation shall at all times be liable: Provided, That the private property of the inhabitants of the said town shall be bound for the redemption of said loan in no other way than by the imposition of an annual tax, according to the provisions of this Act.

SEC. 18. That the Intendant and Wardens elect shall, during their term of office, be exempt from street duty. Each Town Council shall, over books, within one month after the expiration of their term of office make out &c., to their within one month after the expiration of their term of office, make out acc, to the successors. and return to their successors a full account of their receipts and expenditures during their term, and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and papers incidental to their office to their successors; and on failure to do so, they shall be liable to be fined in a sum not exceeding one hundred dollars, to be collected in any proper action by the Town Council.

SEC. 19. That for any willful violation or neglect of duty, malfeasance in office, abuse or oppression, the said Intendant and Wardens, jointly duty of Town and severally, shall be liable to indictment in the Court of Sessions, and, punished. upon conviction, to punishment as prescribed in the preceding Section, besides being liable for damages to any person or persons injured.

SEC. 20. That all ordinances heretofore passed by the Town Council of Darlington, in conformity with the authority granted by such existing laws as do not conflict with the Constitution of the State, shall be, and they are hereby, declared legal and valid.

Sec. 21. That all Acts, and parts of Acts, heretofore passed, in relation

A. D. 1871. to the incorporation of the town of Darlington, be, and the same are hereby, repealed.

> Sec. 22. This Act shall be deemed a public Act, and continue in force until amended, altered or repealed.

Approved March 6, 1871.

No. 349. AN ACT to Change the Name of the Gap Creek and Middle Sa-LUDA TURNPIKE COMPANY, AND TO AMEND AND RENEW THE CHAR-TER THEREOF.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the charter of the Gap Creek and Middle Saluda Turnpike Company be, and the same is hereby, Middle Salu. amended in such manner that the said Company shall hereafter be known da Turnpike by the name of "The Middle Saluda Turnpike Company."

SEC. 2. That the said charter (except as herein excepted) be renewed as to all the rights, powers and duties of said Company, and in all other

respects, for the period of thirty years. Approved March 6, 1871.

No. 350. AN ACT TO PROMOTE THE CONSOLIDATION OF THE GREENVILLE AND COLUMBIA RAILROAD COMPANY AND THE BLUE RIDGE RAILROAD COMPANY.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act entitled "An Act to amend the charter of the Greenville and Columbia Railroad Company," passed by the General Assembly of this State on the 20th day of December, 1853, be, and the same is hereby, re-enacted, with the following amendments or alterations:

> Sec. 2. That for the purpose of extending, or building, or constructing a Railroad from Greenville, all of the provisions of Sections 9, 10, 11 and 12 of an Act entitled "An Act to authorize the formation of the Greenville and Columbia Railroad Company," passed on the 15th day of December, in the year 1845, be, and the same are hereby, re-enacted, with the following amendments or alterations:

May extend their road to Knoxvilleand Asheville.

SEC. 3. That the Greenville and Columbia Railroad Company is authorized, so far as practicable, to purchase, connect or unite with any connecting Railroad or Railroads, and especially to extend Railroad communication to Knoxville, Tennessee, and to Asheville, in North Carolina: Provided, That if the Greenville and Columbia Railroad Com-

pany shall fail to construct and finish the said Railroad, including such other Railroad or Railroads as it may unite with or acquire, to the line between this State and North Carolina and Tennessee, within five years from the final passage of this Act, the right to further construct said

Railroad to Knoxville, and to Asheville, shall cease, and the time lim-

Time limited for completion.

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ited therefor is hereby extended five years from the final passage of this Act; but this limitation shall not impair nor affect any rights, or any Railroad or Railroads acquired, united with, or constructed, so far as acquired, united with or constructed, at the end of the time hereby limited, &c. nor shall anything contained in this Act impair or limit the right or privilege to consolidate or unite with any Railroad or Railroads under any General Railroad law or laws. That the said Greenville and Columbia Railroad Company shall have power to construct and build, May build a upon the most practicable route, a branch of their road, from some their road to point on the line of their road, at or east of Anderson Court House, and west of the Saluda River, to Aiken or Hamburg, and there connect with any Railroad incorporated under the laws of this State; and, also, shall have the power to construct and build, upon the most practicable route, Washington, a branch of their road from Abbaville Court House to the Savannah Georgia. a branch of their road from Abbeville Court House to the Savannah River, in the direction of Washington, Georgia; also, that the said Company shall have the power to construct and build, upon the most practicable route, a Railroad from Spartanburg Court House to the North Carolina line, in the direction of Asheville, or Rutherfordton, North Carolina na line.

SEC. 4. That, in view of the consolidation of the Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company, the action of the said Blue Ridge Railroad Company in making the bonds the making of bonds and authorized under the Act of September 15, 1868, and of the Comptroller- their endorse-General of the State in endorsing the same, and thereby pledging the ment by the Comptrollerfaith and funds of the State to the payment of said bonds, is hereby rati- General. fied and confirmed; and that the making and execution by said Blue Ridge Railroad Company and said other Companies of the mortgage aforesaid to Henry Clews, Henry Gourdin and George S. Cameron, to Also mort-secure the payment of the bonds aforesaid, is also ratified and confirmed; gage to Henry Clews and and said mortgage is declared to be a lien prior to that of the State on others. all property described in said mortgage, and on the entire line of the road aforesaid, and on all the properties of said several Companies, or which they, or either of them, may hereafter acquire; but nothing in this Act contained shall be construed to divest the State of its lien on the estate and property of the said several Railroad Companies, or of either of them, for its endorsement of the bonds aforesaid, but said lien either of them, for its endorsement of the bonds aforesaid, but said lien State lien is postponed to, and declared to be subject and subordinate to, that of subject to a foresaid mort the mortgage, hereinbefore mentioned, to Henry Clews, Henry Gourdin gage. and George S. Cameron, Trustees.

SEC. 5. That all statutory or other liens or lien, encumbrances or encumbrance, equities or equity, except the mortgage encumbrances now upon the property, assets, effects, rights and franchises of said Greenville priority of and Columbia Railroad Company, or any part thereof, and also except the mortgage herein authorized, shall be, and are, or is hereby, made subsequent to the mortgage encumbrances now in existence thereon, and subsequent to the one herein authorized, so that the holders of the bonds secured by said mortgages, or either of them, shall have a lien and security as between each other, according to the time said mortgages have been or shall be recorded, and a prior lien to all other liens or encumbrances whatsoever, any law or laws to the contrary notwithstanding.

SEC. 6. The following clause in Section 2 of the Act of September 15, Repeal 1868, to authorize additional aid to the Blue Ridge Railroad Company, Act of in South Carolina, viz: "And further provided, That the said bonds, or 15, 1863.

A. D. 1871.

Shall not im-

May build a

Confirming

Determining

Repeal of ection 2 of Sept.

any part thereof, shall not be used, unless upon the express condition that upon application to the Congress of the United States, or to private capitalists, the amount of three millions of dollars in currency, or so much of that sum as may be necessary, shall be furnished in exchange, or upon the security of said bonds," is hereby repealed.

Bonds held by companies severally to jointly.

SEC 7. That after the consolidation of the Greenville and Columbia Railroad Company with the Blue Ridge Railroad Company, the bonds endorsed now held by the Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company shall be endorsed by the consolidated Company.

On failure road.

SEC. 8. That if said consolidated Company shall fail to pay its to pay its interest on its guaranteed debt for two years, it shall be the duty of the troller-Gene-Comptroller-General of the State, and he shall have the power, to take possession of immediate possession of said Road, with all its appurtenances, and lease the same to responsible parties, who shall have control thereof until the General Assembly shall, by law, provide for the settlement of the affairs of said Company in the interest of all its creditors.

SEC 9. That the said Greenville and Columbia Railroad Company, and the Blue Ridge Railroad Company, shall forever continue and be a body corporate, capable of suing and being sued in any Court of

competent jurisdiction.

Sec. 10 That all Acts or parts of Acts, inconsistent with this Act, or any part thereof, are, for the purposes of this Act, but for no other purpose, hereby amended, modified, or repealed, as the case may require, so as to conform to the true intent and meaning of this Act.

SEC. 11. This Act shall take effect immediately.

Approved March 6, 1871.

No 351. AN ACT TO MAKE APPROPRIATION AND RAISE SUPPLIES FOR THE FIS-CAL YEAR COMMENCING NOVEMBER 1, 1870.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the following sums be, and they are hereby, appropriated for the payment of the various officers and expenses of the State Government, that is to say:

For Salaries.

Salaries o f officers.

For the Governor, three thousand five hundred dollars; for the Secre-Exe c utive and Judicial tary of State, three thousand dollars; for Clerk to Secretary of State, one thousand dollars; for the Private Secretary of the Governor, two thousand dollars; for the Adjutant and Inspector-General, two thousand five hundred dollars; for the Comptroller-General, three thousand dollars; for Clerk to the Comptroller-General, fourteen hundred and ninety-nine dollars; for the State Treasurer, two thousand five hundred dollars; for the Chief Clerk to the State Treasurer, fifteen hundred dollars; for a Book Keeper to the State Treasurer, eighteen hundred dollars; for Auditor of State, two thousand five hundred dollars; for the State Auditor's Clerk, one thousand five hundred dollars; for the Super-

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intendent of Education, two thousand five hundred dollars; for the Clerk to the Superintendent of Education, one thousand dollars; for the Chief Justice of the Supreme Court, four thousand dollars; for the two Associate Justices, seven thousand dollars; for the eight Circuit Judges, twenty-eight thousand dollars; for the eight Circuit Solicitors, eight thousand dollars; for the Attorney-General, three thousand dollars; for the Attorney-General's Clerk, one thousand dollars; for the Clerk of the Supreme Court, who shall perform the duties of Librarian of said Court, fifteen hundred dollars; for the State Reporter, fifteen hundred dollars; for the Keeper of the State House and State Librarian, one thousand dollars; for the Superintendent of the South Carolina Penitentiary, two thousand dollars; for the three Health Officers, three thousand nine hundred dollars; for the Watchmen of the State House and Grounds, six hundred dollars each; for the County Auditors, thirty-one thousand five hundred dollars; for the Clerk to the Auditor of the County of Charleston, one thousand dollars, and five hundred for additional clerical service; for the three Code Commissioners, ten thousand five hundred dollars; for the Governor's Messenger, three hundred dollars; for the County School Commissioners, thirty-one thousand five hundred dollars.

Executive Department.

SEC. 2. For the Contingent fund of the Governor, twenty thousand continued funds. dollars, out of which shall be paid the expenses of the Bureau of Agricultural Statistics, to be drawn upon the order of the Governor; for the Contingent fund of the Treasurer, two thousand dollars, one thousand dollars of which, if so much be necessary, for fitting up the office of the State Treasury; for the Contingent Fund of the Attorney-General, five hundred dollars; for the Contingent Fund of the Comptroller-General, five hundred dollars; for the Contingent Fund of the State Auditor, five hundred dollars; for the Contingent Fund of the Adjutant and Inspector-General, five hundred dollars; for the Contingent Fund of the Superintendent of Education, five hundred dollars; for the Contingent Fund of the Secretary of State, five hundred dollars; for the Contingent Fund of the State Librarian, one hundred and fifty dollars. appropriations to be drawn on the order of the heads of the several departments, if so much be necessary.

Judiciary Department.

SEC. 3. For the purchase of Books for the Supreme Court Library, one thousand dollars, if so much be necessary, to be drawn on the order of the Chief Justice; for Contingent Expenses of the Supreme Court, under Section 7 of an Act ratified the 18th day of September, 1868, five hundred dollars; for an attendant on the Library, and the rooms of the Supreme Court, eight hundred dollars, to be paid quarterly on the warrant of the Chief Justice on the Treasury, the said attendant to be appointed by, and removable at the pleasure of, said Court.

Ordinary Civil Expenses.

SEC. 4. For the interest on public debt, (\$482,594.40) four hundred and ordinary eighty-two thousand five hundred and ninety-four dollars and forty cents; civil expenses

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for the support of the Lunatic Asylum, thirty thousand dollars, to be drawn on the order of the Governor; for the support of the State Orphan Asylum, ten thousand dollars, to be paid in accordance with the law establishing the same; for the quarantine expenses, three thousand dollars; for the Keeper of the Lazaretto, eight hundred dollars, to be drawn on the order of the Comptroller General, accounts to be first approved by the Governor; for the Physician of the Charleston Jail, one thousand dollars; for transportation and clothing for discharged convicts, three hundred dollars; for the Catawba Indians, one thousand five hundred dollars; for current printing of the General Assembly, thirty thousand dollars, if so much be necessary, to be paid on the order of the Clerks of both Houses; for payment of claims passed by the General Assembly, fifty thousand dollars, if so much be necessary; for deficiency for Legislative expenses, fifty thousand dollars, if so much be necessary; for deficiency for payment of Commissioners and Managers of Elections, ten thousand dollars, if so much be necessary, to be paid in the usual manner.

Extraordinary Expenses.

Sec. 5. For past dues for construction and for continuing the construc-Extraor dinary expention of the South Carolina Penitentiary, eighty thousand dollars, to be paid on the order of the Governor; for repairs on the University buildings, six thousand dollars, to be paid on the order of the Governor; for indexing the records of the Surveyor's office, two thousand dollars, to be paid upon the order of the Secretary of State.

Educational Department.

Educational Department.

Sec. 6. For the support and maintenance of Free Common Schools, one hundred and fifty thousand dollars, in addition to the capitation tax: Provided, That said sum of one hundred and fifty thousand dollars be apportioned among the several Counties of the State, in proportion to the number of children between the age of six and sixteen; further, that each County shall be entitled to the amount of the poll tax raised in said County; for the support of the South Carolina University, twenty-five thousand dollars; for the support of the South Carolina Institution for the education of the deaf and dumb and the blind, ten thousand dollars, to be paid on the order of the Governor; for books already purchased by the State for the use of the Common Schools of this State, thirty-four thousand and twenty dollars and fourteen cents, (\$34,020.14,) to be paid on the order of the Superintendent of Education; for purposes indicated in the 7th Section of Act approved March 9, 1869, five thousand dollars.

Military Expenses.

Military ex-

Sec. 7. For defraying the expenses of the military, ten thousand dollars, five thousand of which shall be used for fitting up the Military Hall, in the city of Charleston; one thousand for repairing and fitting up the Arsenal in Beaufort, to be disbursed by the Adjutant and Inspector General upon the order of the Governor.

SEC. 8. That all taxes assessed and payable under this Act, shall be paid in the following kind of funds, viz: Bills receivable of the State, United States Currency, National Bank Notes, gold or silver coin. Approved March 7, 1871.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF SPARTAN-BURG, GREENVILLE, PICKENS AND OCONEE, AND THE AUTHORITIES OF CERTAIN TOWNS IN THOSE COUNTIES, TO PROVIDE MEANS TO MEET INTEREST ON CERTAIN BONDS.

No. 352.

A. D. 1871.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners of authorized to the Counties of Spartanburg, Greenville, Pickens and Oconee, and the levy taxes. proper authorities of the several cities and towns in those Counties having subscribed, or proposing subscription, to the capital stock of Atlanta and Richmond Air Line Railway Company, be empowered, as soon as the said Railway Company shall have complied with the terms of subscription of any one of the above mentioned Counties, cities or towns, and said subscription shall have been accepted by said Company, then the County Commissioners of such County, or the proper authority of such city or town, are authorized and required to have levied and collected, from year to year, on all taxable property in such County, city or town, a sum of money sufficient to meet the interest accruing on such bonds as may be issued to meet such subscription to the capital stock of the said Atlanta and Richmond Air Line Railway Company, and to provide further payment of such bonds as they may fall due. Approved March 7, 1871.

Authorities

AN ACT DECLARING THE RIGHT OF WAY ACROSS THE SAVANNAH AND CHARLESTON RAILROAD. .

No 353.

Section 1 Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That John R. Dickinson, E. A. Author-ized to obtain Dickinson, John Jones and Henry A. Smith shall be, and are hereby, right of way. authorized to obtain the right of way across the Savannah and Charleston Railroad, in the manner prescribed in an Act entitled "An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations may be taken for the construction and uses of railways, and other works of internal improvement," approved the 22d day of September, 1868.

SEC. 2. That they, the said John R. Dickinson, E. A. Dickinson, John Jones and Henry A. Smith, shall at all times conform with the schedule of the Savannah and Charleston Railroad, and in no instance cross within fifteen minutes of the time any train is due; and it shall be the schedule to be duty of the Savannah and Charleston Railroad Company to give the conformed said parties, John R. Dickinson, E. A. Dickinson, John Jones and with.

A. D. 1871. Henry A. Smith, or their agents, notice in writing, three days in ad-

vance, of any change in their schedule: Provided, That the said John R. Dickinson, and others, shall not be allowed to carry passengers.

Sec. 3. All Acts, or parts of Acts, inconsistent with this Act, are

hereby repealed.

Approved March 7, 1871.

AN ACT TO RENEW AND AMEND THE CHARTERS OF CERTAIN RE-No. 354. LIGIOUS ASSOCIATIONS HERETOFORE GRANTED.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Fairview bly, and by the suthority of the same, That the charter incorporating the Trustees of Fairview Church, in the County of Greenville, passed December 19, 1848, be, and the same is hereby, renewed in Dr. David R. Anderson, Thomas C. Harrison, David M. Peden, Wm. D. Hopkins, Cyrus B. Nesbit, and their successors in office, for the term of twenty-one years from the passage of this Act.

Sec. 2. That the charter heretofore granted to the Protestant Episco-Protest an t Episcopal Church. pal Church, in Greenville, be, and the same is hereby, renewed and extended for the period of fourteen years from the passage of this Act, with all the rights, powers and privileges heretofore granted to said

church.

Sec. 3. That all acts done, or authorized to be done, by the officers of Validatin g clause. said churches, since the expiration of their former charter, be, and the same are hereby, declared valid and binding in all respects, and to all intents.

Approved March 7, 1871.

No. 355. AN ACT TO AUTHORIZE AND EMPOWER JAMES C. RUNDLETT TO ESTABLISH A WHARF IN THE TOWN OF BEAUFORT.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Power to con- and by the authority of the same, That James C. Rundlett be, and is struct a wharf hereby, authorized and empowered to erect and build a wharf at the South end of his lot, in the Town of Beaufort, situated at the corner of Bay and Ninth Streets, and to extend the same as far Southward, toward the channel of the River, as may be necessary for commercial purposes, and Eastward across the foot, and to the West line of Ninth Street, and that he be, and is hereby, authorized and empowered to construct and extend Ninth Street, from Bay Street down to said wharf.

SEC. 2. That the franchise herein granted shall be vested in the said In whom James C. Rundlett, his heirs, executors, administrators and assigns, for vested. the term of twenty-one years.

SEC. 3. All Acts or parts of Acts, inconsistent with this Act, are

hereby repealed.

Approved March 7, 1871.

AN ACT TO DETERMINE THE DAY OF ELECTION OF THE MAYOR AND ALDERMEN OF THE CITY OF CHARLESTON.

A. D. 1871. No. 356.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That so much of the charter of the city of Charleston, and the amendments thereto, as determines the day of election, be, and the same is hereby, amended so as to fix the day of election of Mayor and Aldermen for the city of Charleston, on the first Wednesday of August, eighteen hundred and seventy-one, (1871,) and on the first Wednesday of same month in each alternate year thereafter: Provided, That the present Mayor and Aldermen shall continue in office until the day fixed by the charter of the city of Charleston for the qualification of their successors.

SEC. 2. That the Mayor and Aldermen now in office shall continue

therein until their successors are elected and qualified.

Sec. 3. That all laws now in force in relation to the election of Mayor and Aldermen of the city of Charleston, except so far as hereby repealed, be and continue in force.

Approved March 7, 1871.

AN ACT TO INCORPORATE THE COLUMBIA, WALTERBORD AND YE-MASSEE RAILROAD COMPANY.

No. 357.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That John W. Burbridge, John T. Jennings, W. M. Thomas, J. S. Glover, Burril Sanders, Wm. Driffle, G. D. Richardson, Edward Holmes, O. P. Williams, Geo. F. McIntyre, L. J. Maddocks, A. F. O'Brien, Caleb Sauls, E. P. Holmes, Robert Smalls, N. B. Myers, J. J. Klein, and their associates and successors, are hereby constituted a body politic and corporate, by the name and style of the Columbia, Walterboro and Yemassee Railroad Company.

Persons incorporated.

SEC. 2. That the said Company is hereby authorized to construct a railroad from the town of Branchville, in nearly as direct a line as possible, to the town of Walterboro, and from thence to some point on the Charleston and Savannah Railroad, as near as possible, to the town of Yemassee, on the said Railroad.

SEC. 3. That, for the purpose of raising the capital stock of the said subscriptions Company, it shall be lawful to open books in the town of Walterboro, under the direction of John W. Burbridge, J. S. Glover and William Driffle; at the city of Charleston, under the direction John T. Jennings, Wm. M. Thomas and E. P. Holmes; at the city of Columbia, under the direction of Geo. F. McIntyre, G. D. Richardson and Edward Holmes, for the purpose of receiving subscriptions, to an amount not exceeding one million five hundred thousand dollars, in shares of one hundred dollars each, for the purpose of constructing the Railroad provided for by this Act

SEC. 4. That the times and places for receiving such subscriptions shall be fixed by the Commissioners in the town of Walterboro, or a majority

of them, and shall be advertised for thirty days in one or more newspapers in this State; and the books for receiving such subscriptions shall be kept open for sixty days at each of the places where the same shall be opened.

How pay-ments on shares to be made.

SEC 5. That on each share of the stock subscribed, the subscriber shall pay to the Commissioner receiving such subscription the sum of five dollars, who shall deposit the same in some National Bank; and no subscription shall be valid without such payment; and at the expiration of the time hereby prescribed for keeping open the books, the said Commissioners shall make a return of the subscriptions taken by them, and the sums paid thereon, to the Commissioners in the town of Walterboro.

When Combusiness.

SEC. 6. That when the sum of two hundred and fifty thousand dollars pany may commence shall be subscribed in the manner herein prescribed, the said Company may meet and organize at such time and place as may be designated by a majority of the Commissioners herein named for the town of Walterboro, due notice having first been given.

Corpo rate nowers.

Sec. 7. That, for the purpose of organizing and forming this Company, all the powers conferred by the original charter of the Northeastern Railroad Company on the Commissioners therein named shall be vested in the Commissioners named in this Act, each subscriber being entitled to a vote for each share of stock: Provided, That nothing herein contained shall be so construed as to exempt the said Company from the payment of taxes, or to pledge, by way of endorsement or otherwise, the credit or the funds of the State of South Carolina in aid of the construction of said road.

Shall provide bridges and draws.

to be com-menced and

completed.

SEC. 8. That said Company shall have the right to build bridges across navigable rivers: Provided, They shall put in good and sufficient draws, and shall construct necessary stations and turn-outs, with one or more tracks to the road, with such gauge as shall correspond to that of the South Carolina Railroad, and may co-operate with such road or roads as may be chartered by the State of South Carolina, forming but one road, When road at their discretion: Provided, That the said road shall be commenced and within one year, and completed within five years after the passage of this Act, or the charter thereof shall be forfeited: And provided, further, That said road shall be subject to the provisions of an Act entitled "An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations may be taken for the construction and uses of railways, and other works of internal improvement," ratified September 22, A. D. 1868.

Approved March 7, 1871.

No. 358.

AN ACT TO INCORPORATE CERTAIN RELIGIOUS INSTITUTIONS.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Mt. Pleas-ant Baptist bly, and by the authority of the same, That from and after the passage of this Act, all persons who now are, or who hereafter shall or may become, members of the said Society, shall be, and they are hereby, incorporated, and are hereby declared to be a body politic and corporate, by the name and style of the Mount Pleasant Baptist Church, and by the use#pd-google

said name shall have a succession of officers and members, and have a common seal.

A. D. 1871.

SEC. 2. That the said corporation shall have power to purchase, receive and possess real and personal property, and to sell the same, and, by its corporate name, to sue and be sued in any Court, and to make privileges. such rules and by-laws, not repugnant to law, as may be thought necessary and expedient.

SEC. 3. That from and immediately after the passage of this Act, all persons who now are, or who hereafter shall or may become, members of the Baptist Hopewell Baptist Church, shall be, and they are hereby, incorporated, Church, under the name and style of the Hopewell Baptist Church, of Laurens County, and, by the said name, shall have succession of officers and members, and have and use a common seal.

SEC. 4. That the said corporation shall have power to purchase, receive Capital stock, and possess any real or personal estate, not exceeding in value the sum &c. of twenty thousand dollars, or sell the same, and, by its corporate name, to sue and be sued in any Court of this State, and to make such rules and by-laws, not repugnant to law, as may be thought necessary and expe-

SEC. 5. That Patrick Smalls, Lewis Smalls, James T. Bolan, John Secondary Company to haw Alexander, Robert Chisolm, Joseph Idencutter and Cæsar Gillison, to- Church. gether with all who are now, or who hereafter shall or may become, members of the said Euhaw Baptist Church, of Grahamville, shall be, and they are hereby, declared to be a body corporate, by the name and style of the Second Euhaw Baptist Church, and by this said name shall have succession of officers and members, and have a common seal.

Second Eu-

SEC. 6. That the said corporation shall have power to purchase, re- Powers and ceive and possess any real or personal estate, not exceeding in value the privileges. sum of ten thousand dollars, or to dispose of the same; by its corporate name to sue and be sued, plead and be impleaded in any Court of Law or Equity in this State, and to make such rules and by-laws, not repugnant to the laws of the land, as may be thought necessary and expedient.

SEC. 7. That Samuel Marshall, Antim McKeever, Samuel F. Jackson, Mocedon is Lazarus Smart, Abner Gibson, Cornelius Bell, and all other persons who Church. now are, or who shall or hereafter may become, members of the said Society, shall be, and they are hereby, incorporated, and declared to be a body corporate, by the name and style of the Macedonia Baptist Church, of Darlington, and by that said name shall have succession of officers and members, and have a common seal.

SEC. 8. That the said corporation shall have power to purchase, receive and possess any real or personal estate, for the purpose of this Act, not exceeding in value the sum of fifty thousand dollars, or to sell the same, and, by its corporate name, to sue and be sued in any Court in this State, and to make such rules and by-laws, not repugnant to the laws of the land, as may be thought necessary and expedient. Said Society shall have all the power and be subject to all the liabilities and restrictions of the Act to regulate the formation of corporations, so far as applicable.

Powers and

SEC. 9. That the foregoing Act shall be deemed a public Act, and shall continue in force for the term of twenty-five years.

Approved March 7, 1871.

AN ACT TO RECHARTER THE CYPRESS CAUSEWAY.

No. 359.

Vested

S. Haynes.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Cypress Causeway, on the road leading from Orangeburg to Charleston, be, and the same is hereby, rechartered and vested in Samuel Haynes, his heirs and assigns, for the term of fourteen years, with the same rates of toll heretofore allowed by law: Provided, That voters going to and returning from the polls on election day, and children going to and returning from school, shall be passed free over said causeway.

Proviso.

Approved March 7, 1871.

No. 360. AN ACT TO INCORPORATE THE CAMPEN STEAM MILL COMPANY.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Persons in- bly, and by the authority of the same, Colin Macrae, A. J. Freitag and Walter F. Reed, and their associates and successors, are hereby constituted a body politic and corporate, by the name of the Camden Steam Mill Company, with power to sue and be sued, to plead and be impleaded in all the Courts of law and equity; may enjoy all the privileges incident to corporations, and may purchase, hold and convey real and personal estate to an amount not exceeding twenty-five thousand dollars.

Business and purpose of company.

corporated.

Subscription.

cotton, hulling and pressing cotton seed, or any other similar mechanical or industrial pursuit they may choose to embark in, in the town of Camden, South Carolina. The books for subscription to the capital stock of said company shall be opened by the above named persons, in Camden, as soon as convenient after the granting of this charter, in shares of twenty-five dollars each. Said corporation may have and use a common seal, which they may alter at pleasure.

SEC. 3. The shares shall be deemed personal property, and be trans-

ferred only on the books of said company, in such forms as the Directors

Sec. 2 The business of said company shall be grinding grain, ginning

Shares-how transferable.

> may prescribe. The said company shall, at all times, have a lien on all the stock or property of the members of said corporation invested therein, for all debts due from them to said corporation, and no transfer of scrip or stock shall be valid until such debt, if any, shall be discharged; and said corporation may organize, go into operation and commence business whenever and as soon as five thousand dollars to said stock shall be subscribed for, and five dollars per share of the same paid into the Treasury of said company in cash; and a certificate, signed by the President and Secretary of said company under oath, setting forth said subscription and payment, shall be filed in the office of the Secretary of State.

When said company may commence business.

Officers for managemen t of affairs.

Sec. 4. The stock, property and affairs of said corporation shall be managed by a Board of Directors, not less than three nor more than five, one of whom shall be chosen by them President, and all of whom shall hold their offices for one year, and until others are chosen, and said Di rectors shall be annually elected at such times and places as the by-laws of said corporation shall prescribe; a majority of said Directors shall,

in all cases, constitute a Board for the transaction of business, and a majority of the stockholders at any legal meeting shall be capable, of transacting the business of said meeting, each share entitling the owner Businessthereof to one vote, which may be given in person or lawful proxy. The how transacted. first meeting of said corporation, hereby formed, may be called by a majority of the persons named in the first Section of this Act, at such time and place, and upon giving such notice thereof, as they shall deem rea-

A. D. 1871.

sonable and proper.

SEC. 5. The President and Directors, or a majority of them, for the time being, shall have power to fill any vacancy which may happen, by death, resignation or otherwise, for the current year, or appoint a Secretary and Treasurer, and such other officers as may be necessary, and may require the Treasurer and other officers to give bonds for the faithful discharge of their trust and duty, as said Directors may deem proper; and, also, to make and establish such by-laws, rules and regulations as they shall deem expedient for the management of the affairs of said corporation, and the same to alter: And provided, The same be not inconsistent with the laws of this State or the United States.

Vacancieshow filled.

Officers

SEC. 6. The books of said corporation containing their accounts shall, Books to be open for inat all reasonable times, be open for the inspection of any of the stockhold- spection. ers of said corporation, and annual statements of the accounts of said corporation shall be made and submitted to the annual meetings of the stockholders. The Directors may call in the subscription to the capital stock by installment, in such proportion, and at such times and places as they may deem proper, giving due notice thereof, under such regulations and conditions as they may prescribe

SEC. 7. The said corporation shall, within thirty days of each annual be filed with meeting of the stockholders, lodge a certificate with the Secretary of Secretary of State, setting forth the amount of capital stock of said company actually State. paid in, and the amount of the liabilities of the said corporation, which certificate shall be signed by the President and Secretary of said company, and certified by their oath. This Act shall continue to be in force

Approved March 7, 1871.

for twenty years.

AN ACT TO AUTHORIZE HENRY C. LANCASTER, SMITH HOWE AND No. 361. HENRY A. TOWLES, TO COLLECT WHARFAGE AND STORAGE.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Henry C. Lancaster, Smith Howe and Henry A. Towles, their heirs, executors, successors and assigns, be, and they are thorized. hereby, authorized to collect the usual rates of wharfage and storage upon all goods, merchandise and commodities that may be landed at or wharfage and upon their wharf at Enterprise Landing, on Wadmalaw Island. Approved March 7, 1871.

Persons au-

storage.

73

ciety.

A. D. 1871.

AN ACT TO INCORPORATE AND RECHARTER CERTAIN RELIGIOUS Institutions. No 362.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Orangeburg and by the authority of the same, That so much of the Act passed on Presbyterian Church Sothe nineteenth day of December, in the year of our Lord eighteen hundred and forty-nine, as incorporated the Orangeburg Presbyterian Church Society, be revived and continued of force for the period of twenty-one

Walnut Grove Baptist Church.

SEC 2. That Walnut Grove Baptist Church, in the County of Abbeville, in South Carolina, be, and the same is hereby, rechartered for the term of twenty-one years, with the same rights, powers and privileges as those heretofore allowed by law.

SEC. 3. That all acts done or authorized to be done by the officers of said church since the expiration of its former charter, be, and the same are hereby, declared valid and binding in all respects, and to all intents.

New Hope Sec. 4. Whereas Robert Knox, John C. Fringe, Ezekiel Hunnicutt Bapt 1 1 8 t and John L. Wilson, as trustees of the New Hope Baptist Church, in Oconee County, have prayed to be incorporated: Therefore, from, and immediately after, the passage of this Act, all those persons who now are, or who hereafter may become, members of the said Society, shall be, and they are hereby, incorporated, and are hereby declared to be a body politic and corporate, in deed and in law, by the name and style of the New Hope Baptist Church, Oconee County, and by the said name shall have perpetual succession of officers and members, and a common seal, with power to change, alter and make new the same as often as the said corporation shall judge expedient

May hold and dispose of property.

have, hold, receive, enjoy, possess and retain to itself, in perpetuity, or for any term of years, any lands, tenements or hereditaments, or other property, of what nature soever, not exceeding the sum of ten thousand dollars, or to sell or alien the same, as the said corporation shall think fit, Powers and and by its said name to sue and be sued, implead and be impleaded, answer and be answered unto, in any Court of law or equity in this State. and make such rules and by-laws (not repugnant to the laws of the land) as for the good government and management thereof may be thought neces-

SEC. 5. That the said corporation shall be capable, in law, to purchase,

privileges.

sary and expedient.

SEC 6. That Balis Hix, Wiley R. Harbin, William Isbell, Livingston Beaver SEC 6. Inat Dalis IIIA, VILLEY A. Sloan Stephens, and their successors in office, be, and they are hereby, constituted a body corporate and politic, under the name and style of the Beaver Dam Baptist Church, of Oconee County, with a capital stock not exceeding the sum of five thousand dollars, with the right to sue and be sued, to plead and be impleaded, in any Court of competent jurisdiction, to have and to hold a common seal, and the same to alter at will and pleasure, and with all other rights and privileges that are now secured by law to like incorporated bodies.

Trinity Baptist Ch urch.

SEC. 7. That W. J. Parnell, James Fletcher, Richard H. Humbert, Henry Washington, Jacob Lindsey, Louis Kelley, Abraham Peterson and Jack Quillian, and all persons who now are, or who hereafter shall or may become, members of the said Society, shall be, and they are

hereby, incorporated and declared a body politic, under the name and style of the Trinity Baptist Church, of Florence.

SEC. 8. That the said corporation shall have power to purchase, receive and possess any real or personal estate for the purpose of this Act, privileges. not exceeding in value the sum of twenty-five thousand dollars, or to sell the same, and, by its corporate name, sue and be sued, plead and be impleaded, in any Court in this State, and to make such rules and bylaws (not repugnant to law) as may be thought necessary and expedient; and said Society shall have all the powers, and be subject to all the liabilities and restrictions of the Act to regulate the formation of corpora-

Sec. 9. Whereas Oliver Hewett and his associates have prayed to be incorporated: Therefore, that from and immediately after the passage of this Act, all persons who now are, or who hereafter shall or may become, members of the said Society, shall be, and they are hereby, incorporated and declared to be a body corporate, by the name and style of the Bin- Camp Meeting Society, and by said name shall have succession of ing society.

officers and members, and have a common seal.

SEC. 10. That said corporation shall have power to purchase, receive and possess any real or personal estate, not exceeding in value the sum of privileges. twenty thousand dollars, or to sell the same, and, by its corporate name, to sue and be sued, in any Court in this State, and to make such rules and by-laws, not repugnant to law, as may be thought necessary and expedient.

SEC. 11. That the foregoing Acts are deemed public Acts, and the charters and recharters contained in this Act shall continue in force after the ratification of this Act, for the term of twenty-one years, and until the next meeting of the General Assembly thereafter.

Approved March 7, 1871.

tions, so far as applicable.

AN ACT TO RELINQUISH ALL THE RIGHT AND INTEREST OF THE STATE of South Carolina in and to Certain Real Estate Whereof ONE NAPOLEON B. POUNCEY, OF HORRY, A BASTARD, DIED SEIZED, AND VEST THE SAME IN CERTAIN PERSONS THEREIN MENTIONED.

No. 363.

Preamble.

Whereas, one Napoleon B. Pouncey, late of the County of Horry and State of South Carolina, a bastard, was, during his life, seized and possessed, in fee simple, of a certain tract of land situate in said County, and died intestate, seized and possessed of the same, as aforesaid, whereby it vested in the State of South Carolina by escheat; and, whereas, California Hughes, Thomas M. Pouncey and Viola Pouncey, of said County, are children, also born out of lawful wedlock, of the father and mother of said Napoleon B. Pouncey;

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all the right, title and interest of the State of South Carolina to and in the tract of land aforesaid is, by this Act, Vest ed in relinquished, and vested in said California Hughes, Thomas M. Pouncey of Hughes

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and Viola Pouncey, to have and to hold the said tract of land in common, share and share alike, to themselves, their heirs and assigns forever: Provided, That said land be subject to the lawful debts of said Napoleon B. Pouncey at the time of his decease. Approved March 7, 1871.

No. 364. AN ACT TO REGULATE THE CALL OF THE DOCKET OF THE SUPREME COURT.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Supreme Court shall, on the last day of each stated term, make and publish an order designating the order in which the causes from the several Circuits shall be called at the stated term of the Court next ensuing, which order shall also specify the time to be allotted to the hearing of causes from each Circuit. This order shall be irrevocable.

Order for calling causes

Sec. 2. If the causes from the several Circuits cannot be heard within the period allotted, as provided in the preceding Section, the Court shall to be publish- continue the same to be heard after the regular call of the Circuits, of, in its discretion, till the next stated term.

Approved March 7, 1871.

AN ACT TO ENABLE JUDGMENT DEBTORS TO SELL THEIR REAL AND No. 365. Personal Property, and to Confirm Sales already made, in CONFORMITY WITH CONDITIONS HEREIN SPECIFIED.

the same to be dated and signed officially by the said Sheriff.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, sell and by the authority of the same, That from and after the passage of this their prop. Act judgment debtors may, and they are hereby, authorized and empowered to sell and convey any or all of their real and personal property which may, at the time, be subject to levy and sale to satisfy any judgment or decree of any Court in this State against the said debtor, and to Pay over proceeds to pay over the entire proceeds of said sale or sales to the Sheriff in whose over office such judgments, executions or decrees are lodged, to be applied by said Sheriff towards the satisfaction of the same; and, provided no objection shall be made in writing by either of the judgment creditors and filed with said Sheriff as to the price at which the said property may have been sold within three months from and after the time such payment shall have been made, the said sale or sales shall thereupon be considered confirmed; and the said Sheriff shall make the following endorsement make certain on the back of the deed or deeds of conveyance, viz: "No objection encorsement having been filed in my office to the within bargain and sale within the conveyance. time prescribed by law, this bargain and sale is therefore confirmed;"

erty.

Sec. 2. Be it further enacted, Should either of the judgment creditors object to the prices at which any of the said property may have been sold, and file such notice with the Sheriff within the time before men- as to price to tioned, the Sheriff shall immediately proceed to levy upon and offer for be filed by sale said property, proceeding, in all respects, according to the law in Sheriff. regard to levy and sale by the Sheriff; and if the highest bid made for said property shall not be more than the amount of the indebtedness sheriff in which had been cancelled by the sale made by the debtor, the Sheriff that case. shall withdraw said property from sale; and the creditor or creditors who may have filed their objection shall be required to pay all costs The and expenses that accrued in consequence thereof. shall make the following endorsement on the back of the conveyance made by the debtor, viz: "Objection having been filed in my -, judgment creditor, I levied upon and exposed for sale the property within named; and failing to re- make ceive a higher bid than the amount of indebtedness cancelled by the proceeds of the within bargain and sale, this sale is therefore confirmed," and signed as directed in Section 1 of this Act.

Sheriff to e ndorsement.

SEC. 3. Be it further enacted, That in the event that the property, when exposed for sale by the Sheriff, as provided for in Section 2, should bring be refunded. more than the amount of the indebtedness cancelled by the proceeds of the sale made by the debtor, the purchaser from the debtor shall be refunded the amount paid by him, with interest from the time of payment, and the bargain and sale made by the debtor rescinded, and titles executed by the Sheriff to the purchaser at his sale; and, after deducting the costs and expenses by reason of the levy and sale, the remainder to be applied, according to law, towards satisfaction of the judgment or executions in his office.

Surplus of

SEC. 4. Be it further enacted, That all sales of either real or personal All sales property made by judgment debtors, and the entire proceeds of said sales above conhaving been paid into the Sheriff's office, to be applied toward the satisfirmed, when no objection faction of the demands in that office against such debtor prior to the be raised. passage of this Act, shall be considered confirmed, unless objections to the price at which said property had been sold shall be made by any of the judgment creditors within three months from and after the passage of this Act; and, provided objections shall be filed, as specified in Section 2 of this Act, in such case the Sheriff shall proceed as directed in Sections 2 and 3 of this Act.

SEC. 5. Be it further enacted, That all Acts and parts of Acts, inconsistent with this Act, are hereby repealed.

Approved March 7, 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE HOMESTEAD BUILDING, PLANTING AND LOAN ASSOCIATION, OF South Carolina."

No. 366.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the said Act be so amended, in

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A.D. 1871. Section 1, as to read, between the words "Planting" and "Loan," "Dime Savings;" and in Section 2 to read "twenty-five dollars" instead of " two thousand."

Approved March 7, 1871.

AN ACT TO AUTHORIZE THE FORMATION OF, AND TO INCORPORATE, No. 367. THE TUGALOO AND CHATTANOOGA RAILROAD COMPANY.

> Whereas, it is desirable that there should be a connection, by railroad, between some point on the Blue Ridge Railroad and Chattanooga, Tennessee; therefore,

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assemor bly, and by the authority of the same, That the formation of a corporate Company is hereby authorized, for the purpose of constructing a railroad from some point on the Blue Ridge Railroad, in Oconee County,

to the town of Chattanooga, in the State of Tennessee, so far as said railroad shall run through this State, the said Company to have exclusive right to make, keep and use such railroad; and, for the term of time hereinafter mentioned, no other railroad shall be constructed between the

same points.

Capital stock -how raised.

Purpose company.

> Sec. 2. That, for the purpose of raising the capital stock of said Company, it shall be lawful to open books at Walhalla, under the direction of Robert A. Thompson, E. P. Verner, P. L. Dean, O M. Doyle and A. E. Normon, as Commissioners, and at such other places, and under the direction of such other persons, as the said Commissioners, or a majority of them, may designate, for the purpose of receiving subscriptions to an Amount of amount not exceeding two millions of dollars (\$2,000,000,) in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of constructing and carrying into operation the said railroad; and,

> > on each share of the stock the subscriber shall pay to the Commissioners who shall be authorized to take the same, the sum of five dollars in law-

When company may or-

same.

ful money of the United States.

SEC. 3. That when the sum of three hundred thousand dollars (\$300,-000) shall have been subscribed, in the manner before specified, the subscribers shall be, and they are hereby, declared to be a body corporate, to be known by the name and style of the Tugaloo and Chattanooga Railroad Company, and may meet and organize the said Company, at such time and place as may be designated by the Commissioners before

named for Walhalla.

May build branch roads.

SEC. 4. That the said Company shall have power, and they are hereby authorized, to construct one or more branches from the said road to connect with other roads in this State, at such point or points as they may deem meet and proper; and said Company shall have power to consolidate or unite with any other company or corporation having like powers.

Powers generally.

Sec. 5. That, for the purpose of organizing the said Company, all such powers as are conferred by the charter of the Greenville and Columbia Railroad Company on the Commissioners at Greenville shall be, and they are hereby, conferred on the Commissioners herein appointed at Walhalla; and all the powers, rights and privileges granted by the said charter and Carolina on 2024-09-23 19:43 GMT / http://www.hathitrust.org/access

its amendments to the Greenville and Columbia Railroad Company shall be, and they are hereby, granted to the Tugaloo and Chattanooga Railroad Company, and subject to like restrictions as are therein contained, except as to the capital stock, the sum necessary to authorize organization, and the amount of shares, except so far as may be necessary to conform to the special provisions of this Act: Provided, however, That nothing herein contained shall be so construed as to bind the State to subscribe stock in said Company, or make any appropriations to enable the said Company to build the said road, or in any manner to loan the credit of the State thereto.

A. D. 1871.

Proviso.

SEC. 6. That in the event any vacancy should occur in the Commissioners herein appointed at Walhalla, from death, refusal to serve, or otherwise, the Senator and members of the House of Representatives (at the time being) from the County of Oconee shall be, and they are hereby, authorized and empowered to supply the same by appointment.

Vacancieshow filled.

SEC. 7 That the charter hereby granted shall continue and endure for the term of thirty-six years from the date thereof; and this Act shall be taken and deemed to be a public Act; and all Acts and parts of Acts, inconsistent with this Act, be, and the same are hereby, repealed: Provided. That said Company shall commence the building of the said road within two years, and have the same completed within six years. Approved March 7, 1871.

Proviso.

AN ACT TO REQUIRE THE COUNTY COMMISSIONERS TO REPORT TO THE GENERAL ASSEMBLY.

No. 368.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners of each County shall, on or before the fifteenth of December, in each year, report to the port. General Assembly all accounts chargeable to their respective Counties; what have been allowed and settled; the number and amount of orders drawn upon the County Treasurer; the taxes levied and collected; the amount expended for rebuilding or repairing Court House, Jail, Poor House and Bridges; in fact, a detailed account of all their doings, as required by an Act entitled "An Act to define the jurisdiction and duties of County Commissioners," approved September 26, 1868. And upon failure so to report, they shall be fined in a sum not less than fifty, nor more than two hundred dollars.

When and what to re-

Failure and

Approved March 7, 1871.

AN ACT TO INCORPORATE THE WORKINGMEN'S MUTUAL BENEFIT LIFE No. 369. Assurance Association, of South Carolina.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Edward Mickey, Samuel J. Keith, A. J. Ransier, Isaac H. White, W. H. J. Brodie, R. H. Humbert,

Corporators.

Stephen Gary, Samuel B. Thompson, N. E. Edwards, Thomas D. Mc-Dowell, W. J. McKinlay, P. R. Rivers, F. H. Frost, W. E. Johnston, Wm. Hayne, and their associates and successors, are hereby made and created a body politic and corporate, under the name and style of the Workingmen's Mutual Benefit Life Assurance Association of South Carolina.

Corporate powers.

Sec. 2. That the said corporation hereby created and established shall have succession of officers and members according to its by-laws, and shall have power to make such by-laws, not repugnant to the laws of the land, and to have, use and keep a common seal, and the same to alter at will, to sue and be sued, plead and be impleaded in any Court in this State, and to have and enjoy all such property, real and personal, as may be given, bequeathed or devised to it, or may be in any manner whatsoever acquired by the said corporation: Provided, The amount so held shall not exceed the sum of twenty-five thousand (25,000) dollars.

Capital.

privileges.

Sec. 3. That the said corporation may, from time to time, invest their funds, moneys, assets and all other property, stocks, public or private, notes, bills, bonds, with or without security, by mortgage of real or personal property, or by surety, in such sums and on such terms and conditions as they may deem proper; and it shall be lawful for the said corporation, Powers and from time to time, and at all times, to sell, convey, mortgage, assign or transfer all of its property, real and personal, as and when it may be deemed proper and expedient, and to make and execute bonds under their corporate seal, with or without mortgage, for the purchase of real or per-

> sonal property. Sec. 4. That this Act shall continue in force for the space of twenty years, and that the same shall be taken and deemed a public Act, and

may be given in evidence without being specially pleaded. Approved March 7, 1871.

No. 370. AN ACT TO INCORPORATE THE UNION GOLD MINING COMPANY, OF South Carolina.

Corpo rate

powers.

of the State of South Carolina, now met and sitting in General Assem-Corporators. bly, and by the authority of the same, That Lucian Hawley and George C. Alden, of the city of Washington, D. C., Alvin H. Ultey, Oliver Cornell and C. C. Puffer, of the County of Union, and State of South Carolina, and such other persons as now are, or may hereafter be, associated with them, their successors and assigns, be, and they are hereby, constituted a body corporate and politic, by the name and style of the Union Gold Mining Company, by which name and style they are hereby made capable in law to have, hold, purchase, receive, work, sell, mortgage, lease, enjoy and retain to them, their successors and assigns, lands, tenements, mines of all characters, and chattels of whatsoever kind, as may be deemed by them most conducive to the objects and interests of said corporation, which are mining and working for gold and other minerals, and manufacturing the same in Union County, and other parts of the State of South Carolina, and of sending the same to market.

Section 1. Be it enacted by the Senate and House of Representatives

SEC. 2. That said corporation, by its title aforesaid, may sue and be

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sued, plead and be impleaded, in any Court of this State, make and use a common seal, altering the same at their pleasure, establish, alter and amend such by-laws and regulations as shall be deemed proper by them, privileges. not in conflict with the Constitution or laws of this State, or the United

A. D. 1871.

Powers and

Sec. 3. That the capital stock of said corporation shall be ten thou- capital stock. sand dollars, with the right to increase the same, by a vote of a majority of the Directors, to any sum not exceeding one million of dollars; that said Company shall commence business within sixty days after the capital stock is fully subscribed, and the stock may be paid either in money, or real estate, or mining leases and machinery; the same to be divided into such number of shares as said corporation may determine; said shares to be assignable and negotiable under such rules as said corporation may prescribe.

SEC. 4. That there shall be annual meetings of the stockholders at such time and place as the Directors may designate for the purpose of choosing a Board of Directors, to consist of not less than five, nor more than nine, each of whom shall be a stockholder, and a President and other officers of said corporation, to manage its affairs.

Meetings.

Board of Directors.

SEC. 5. That said Company shall keep an office at their principal mine in Union County, which, for all judicial purposes, shall be deemed its location, and, also, one in the cities of Columbia and New York, if they choose; and all meetings of stockholders and Directors may be held at such place, in or out of the State, as may be directed by the by-laws of the Company.

Office of the

SEC. 6. That all the property, real and personal, of said Company, Property of stockholders shall be liable for its debts, and the private property of the stockholders hable for its shall be liable for the debts of the Company to the amount of stock sub-debts. scribed.

Sec. 7. That this corporation shall have a legal existence from the SEC. 7. That this corporation shall have a legal existence from the Acceptance time a written acceptance or adoption of this charter, signed by a mater to be filed with jority of the persons named in the first Section, shall have been filed in secretary of the office of the Secretary of State; and this Act shall continue in force for thirty years from and after its passage, and the privileges and fran-chises granted by this charter shall not be withdrawn during that time. Approved March 7, 1871.

AN ACT TO PROVIDE FOR THE GOVERNMENT OF THE SOUTH CARO-LINA INSTITUTION FOR THE EDUCATION OF THE DEAF AND DUMB AND THE BLIND.

No. 371.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That His Excellency the Governor, the Comptroller-General, and the State Superintendent of Education, be, and they are hereby, constituted a Board, to be known by the name, style and title of the Board of Commissioners of the Deaf and Dumb and the Blind, and are hereby vested with the supervision and control of the ers. affairs and government of the South Carolina Institution for the Education of the Deaf and Dumb and the Blind, located at Cedar Springs,

Board of

A. D. 1871. Spartanburg County, S. C. The Governor shall be ex officio Chairman, and the State Superintendent of Education, Secretary of the said Board.

Meetings of

SEC. 2. That the said Board of Commissioners shall meet annually, on the first Monday in November, at the office of the Governor, and at such other times and places as the Chairman of the Board shall direct. Board shall receive no compensation for their services.

Secretary to visit institumake report.

SEC. 3. That it shall be the duty of the Secretary of said Board to visit the South Carolina Institution for the Education of the Deaf and Dumb and the Blind at least twice during each school session thereof, in order to notice the condition of the Institution, the efficiency and faithfulness of the instructors and officers, and the progress of the pupils thereof, and to submit to the said Board written reports of such Shall be al- visits He shall be allowed actual travelling expenses incurred in making such visits; the same to be subject to the approval of the other members of the Board, and be paid from the funds appropriated for the support of

ing expenses.

instructors.

Board shall appoint a principal and such teachers and officers of the Institution as they shall deem requisite, and to fix their salaries; to establish conditions, forms and regulations for the admission of pupils to the Institution, and to prescribe such rules and by-laws as they, in their judgment, shall deem necessary for the management and good government of the

Repeal in g

SEC. 5. That all Acts or parts of Acts inconsistent with this Act, be, and the same are hereby, repealed.

SEC. 6. That this Act shall take effect from its passage.

Approved March 7, 1871.

the Institution.

AN ACT TO INCORPORATE THE YOUNG MEN'S BROTHERLY ASSOCIA-No. 372. TION.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That J. G. Allston, William S. Cole, Jacob Gaval, N. S. Wayne, John Brown, J. Taylor, J. Hayne and J. R. Corporators. Pinckney, and their associates and successors, be, and they are hereby, declared a body corporate and politic, by the name and title of the "Young Men's Brotherly Association," for the space of fourteen years; Powers and and that they have power, by their corporate name and style, to sue and be sued, to plead and be impleaded, to have and to use their own seal, and to make their own by-laws, not inconsistent with the laws of the

land, with power to purchase and hold real and personal estate to the

privileges.

Approved March 7, 1871.

amount of twenty thousand dollars.

AN ACT TO RELEASE THE LIEN OF THE STATE UPON A LOT OF LAND IN THE CITY OF CHARLESTON, OWNED BY THE SOUTH CAROLINA IN-STITUTE FOR THE PROMOTION OF ART, MECHANICAL INGENUITY AND Industry, and take a similar Lien upon the New Hall erected BY SAID SOUTH CAROLINA INSTITUTE.

A. D. 1871. No. 373.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the lien of the State of South Carolina upon the sum of ten thousand dollars appropriated by the Act of the General Assembly entitled "An Act to make appropriations for the year commencing in October, one thousand eight hundred and fifty-'ratified on 16th of December, 1852, be, and the same is hereby, released, and the Comptroller General is hereby directed to enter satisfaction upon the mortgage of the lot of land situate on the east side of Meettion upon the mortgage of the lot of land studie on the east side of Meet-ter satisfac-ing street, in the city of Charleston, executed by the South Carolina In-tion on mort-stitute for the promotion of Art Mechanical Ingenuity and Industry to Ruge_to Wilstitute for the promotion of Art, Mechanical Ingenuity and Industry, to liam Laval. William Laval, Treasurer of the Lower Division of the State of South Carolina, to secure the said appropriation: Provided, however, That the City Council of Charleston shall also release its claim against the South Carolina Institute for the promotion of Art, Mechanical Ingenuity and Industry: Provided, further, That the said lot be sold at public auction, after ten days' notice, published in the daily papers of Charleston, and tion. the proceeds thereof appropriated to the payment of the cost of the new hall recently erected on the Washington Race Course by the said South of proceeds. Carolina Institute: Provided, further, That the State of South Carolina shall have the same lien and claim, to the extent of the money realized from the said sale, upon the said new hall erected as aforesaid, that has heretofore existed upon the said lot of land. Approved March 7, 1871.

Lot to be sold at auc-

AN ACT TO INCORPORATE THE BREWER GOLD MINING COMPANY, OF SOUTH CAROLINA.

No. 374.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Thomas S. Cavender, Charles J. Andell and Joshua Clendenon, and such persons as now are, or hereafter may be, associated with them, their successors and assigns, be, and they are hereby, constituted a body corporate and politic, by the name and style of the Brewer Gold Mining Company, by which name and style they are hereby made capable in law to have, hold, purchase, receive, work, sell, mortgage, lease, enjoy and retain to them, their successors and assigns, lands, tenements, mines of all characters, and chattels of whatsoever kind, they may deem conducive to the object and interest of the said corporation, which are mining and working for gold and other minerals, and manufacturing the same, in Chesterfield County, and other parts of South Carolina, and of sending the same to market.

Sec. 2. That the said corporation, by their name and style aforesaid, may sue and be sued, plead and be impleaded, in any Court of this State, Corporators.

Corporate privileges.

make and use a common seal, and alter and change the same at their pleasure, and make and establish such by-laws and regulations, and such alterations, and amendments thereof, not in conflict with the Constitution or laws of this State, or of the United States, as they shall deem proper.

Capital stock.

SEC. 3. That the capital stock of the said corporation shall be twenty thousand dollars, with the right to increase the same by the vote of a majority of the Directors, to any sum not exceeding one million dollars; that the said corporation shall commence business within sixty days after its capital stock shall have been subscribed, and the stock may be paid either in money, real estate, mining leases, machinery, or any other kind of property, the same to be divided into such number of shares as the said corporation may determine, and the shares to be assignable and negotiable under such rules as the said corporation may prescribe.

Annual meeting.

Officers company.

SEC. 4. That there shall be annual meetings of the Stockholders, at such time and place as they may designate, for the purpose of choosing a Board of Directors, to consist of not less than three nor more than nine, of each of whom shall be a stockholder, and a President and other officers of the said corporation, who may be members of the said Board of Directors, to manage their affairs.

Offices of said company

SEC. 5. That the said corporation shall keep an office at their principal mine in Chesterfield County, which, for all judicial purposes, shall be deemed their location; and also one in Philadelphia, or New York, if they choose; and all meetings of the Stockholders and Directors may be held at such places, in or out of the State, as may be directed by the by-laws of the said corporation.

General powers, privileges and liabilities

SEC. 6. That the said corporation shall have all the rights and privileges granted by law to other Gold Mining Companies in this State, and all the property, real and personal, of the said corporation, shall be liable for their debts, and the private property of the Stockholders shall be liable for the debts of the said corporation to the amount of stock subscribed by them respectively, and not actually paid in money or in property, at the time of the commencement of the suit against them.

Sec. 7. That the said corporation shall have a legal existence from the time of the passage of this Act, and this Act shall continue in force for the term of thirty years from and after the time of its passage, and the privileges and franchises granted by this Act shall not be withdrawn

during that term.

Approved March 7, 1871.

No. 375. AN ACT TO PROTECT THE INTERESTS OF THE STATE WHENEVER PAY-MENT OF INTEREST NOW DUE REMAINS UNPAID ON BONDS ISSUED BY ANY RAILROAD COMPANY, AND WHEREON THE GUARANTY OF THE STATE IS ENDORSED.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Attorney-General be, and he is hereby, required and authorized to cause to be instituted immediately after the expiration of thirty days after the final passage of this Act, for, on behalf of, and in the name of this State, an action, suit or

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other legal proceeding in any Court of this State, or of the United States. against each Railroad Company which has, also, against all Railroad Companies which have heretofore issued bonds upon which the guaranty General of the State is endorsed, and on which interest is now due and unpaid, proceed unless, within thirty days after the final passage of this Act, such Rail-railroad comroad Company or Railroad Companies shall fully pay and discharge such panies deliniterest; for the purpose of enforcing the payment of all interest due on ment of inthe bonds of such Railroad Company, and protecting and securing the bonds of such Railroad Company, and protecting and securing the bonds guar-State against loss or damage by reason of said guaranty, and to this end, anteed by the to enforce the rights of the State by virtue of the statutory or other lien or mortgage held by the State, or held to secure the payment of said bond or bonds, on all or any of the property, assets or effects of such Company or Companies.

SEC. 2. That the Attorney-General be, and he is hereby, authorized to appear for, on behalf of, and in the name of this State, in any action, suit or proceeding on behalf of any other party or parties, against any such Railroad Company or Railroad Companies, and to bind the State in such action, suit or proceeding, and to protect the interest of this State

SEC. 3. That if the property included in the statutory or other lien or deficiency the mortgage held to secure the payment of the bond or bonds named in the state to befirst Section of this Act, shall not realize enough upon any sale or sales come liable. of all the property, assets and effects, under and in pursuance of any order, judgment or decree, in such action, suit or proceeding, to pay the principal and interest of such bond or bonds, the deficiency shall be, and is hereby, made a debt of this State, and shall be, and is made, payable as such.

SEC. 4. That such deficiency mentioned in the last preceding Section may, at the option of the holder of the whole or any portion thereof, be funded into coupon bonds of this State, of amounts not less than one hundred dollars each, bearing interest at the rate of six per cent. per year, payable semi-annually, which said bonds shall be payable within twenty years after the final passage of this Act, and upon the request of the owner or owners of such deficiency, the Treasurer of this State shall issue such bond or bonds.

Deficie n c y

SEC. 5. That an annual tax, in addition to all other taxes, shall be Tax to be levied upon the property of the State sufficient to pay the interest upon above purthe bond or bonds hereinbefore authorized, and upon the indebtedness pose. arising out of such aforementioned deficiency at the times when such interest shall fall due.

SEC. 6 That the Attorney-General be, and he is hereby, authorized to Attorney-employ such counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State, to employ counsel as he may deem best for the interest of the State and the sta assist him in performing the duties imposed by this Act, and to pay there-sell for such compensation as he shall deem just, which shall be paid by the State Treasurer upon the certificate of the Attorney-General.

Sec. 7. All Acts and parts of Acts inconsistent with this Act, are hereby repealed.

Approved March 7, 1871.

A.D. 187L AN ACT TO INCORPORATE THE CONTINENTAL TELEGRAPH COMPANY.

No. 376.

Name

company.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That William M. Hall, Ethan A. Hall and Charles Thurman, and all those who shall become stockholders in the company hereby incorporated, shall be a body politic and corporate, by the name of the Continental Telegraph Company, and, by that name, shall have perpetual succession, and may have and use a common seal, and may sue or be sued, in any Court of competent jurisdiction.

Where may construct telegraph lines.

Proviso.

SEC. 2. Such corporation is authorized to construct lines of telegraph along, upon, across, over, under and beside of the Greenville and Columbia Railroad, and any of the public roads and highways, and under and across any of the waters within the limits of this State, or so much or so many of either of the foregoing as may be deemed expedient, by establishing suitable offices and the erection of the necessary cords or wires and fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines: Provided, The same shall not be so constructed as to incommode the public use of said roads or highways, or injuriously interrupt the navigation of said waters; and also to construct a line or lines of telegraph, and to establish offices, and erect such necessary cords or wires and fixtures, including the posts, piers or abutments, as and for the purposes aforesaid, and keep, hold and maintain the necessary offices upon, through or over any other land, subject to the right of the owner or owners thereof to full compensation for the same, to be agreed upon by said owner or owners and the said corporation, or to be fixed or determined as hereinafter provided; and the said corporation may, in like manner, and with like power, construct lines of telegraph to such place or places without the State as the Board of Directors may elect.

May lease and hold real estate.

Sec. 3. Such corporation shall have full power to purchase, lease, receive, hold and convey real estate, or any interest therein, and may, in addition thereto, use such real estate, or any interest therein, as may be necessary for the convenient transaction of the business, and for effectually carrying on the operations of said corporation; and may appoint such Directors, officers and agents, and make such prudential rules, regulations and by-laws as may be necessary in the transaction of its business, not inconsistent with the Constitution of this State or of the United States.

In case of damages to owners of land, &c., Commissioners to be ap-pointed by Circuit Court to appraise.

Sec. 4. If any owner or owners of any land taken or used, or likely to be taken and used, by said corporation, shall consider himself aggrieved, or likely so to be, or damaged thereby, or shall refuse to accept the compensation offered by said corporation therefor, it shall be the duty of the Circuit Court, to be held in the County within which said lands are, on the application of such owner or owners, or of such corporation, by petition, stating the facts in relation thereto, and on such notice to the opposite party as such Court shall prescribe, to appoint three disinterested persons as Commissioners, who shall, severally, take and subscribe an oath, before any person authorized to administer oaths, faithfully and impartially to perform the duties required of them by this Act; and it shall be the duty of said Commissioners, or a majority of them, to make a just and equitable assessment or appraisement of all the loss or damage sustained, or which is likely to be sustained, by reason of any land, or interest therein, taken

or used, or likely to be taken or used, for said offices, lines, posts, piers or abutments, and the erection and operation of said telegraph lines; and such assessment or appraisal shall, in any proper case or cases, determine the annual rent or compensation to be paid by said company for such use, or, in lieu thereof, a sum in gross, as the compensation for allowing the fixtures belonging to such association permanently to continue, and the same to be repaired, improved and renewed or removed, from time to time, as such corporation shall require, duplicates of which said assessment or appraisement shall be reduced to writing and signed by said Commissioners, or a majority of them, one copy of which shall be delivered to the party alleged to be injured, or likely so to be, and the other to the President of said corporation, on demand; in case any damage shall be adjudged to the person alleged to be injured or damaged, or likely so to be, the corporation shall pay the amount thereof, with costs of appraisal, which said costs shall be liquidated as ascertained in said award; and said Commissioners shall receive, for their services, two dollars for each day they are actually employed in making said appraise- tion of such ment; and upon payment of such award the right, title, interest or property described in said assessment or apportionment, shall become and be vested in and be the property of such corporation.

appraisers.

SEC. 5. The capital stock of such corporation shall be fifty thousand Capital stock. dollars, to be divided into two thousand shares of twenty-five dollars each, which may be increased, from time to time, to such an amount as, and whenever a majority of the stockholders present at any general meeting shall elect; books of subscription may be opened to obtain the amount of stock first above named, at such time and place, within this to same. State, as a majority of the persons first above named shall determine, and for the increased stock, in such a manner as the said corporation may deem expedient; and the said corporation shall go into operation at such time as a majority of the stockholders may fix.

SEC. 6. Such corporation may lease, sell or convey its property, rights, Powers, privates. 6. Such corporation may lease, sell or convey its property, rights, Powers, private thereof. to. ileges, &c. privileges and franchises, or any interest therein, or any part thereof, to, or may unite with, any telegraph company organized under or created by the laws of this or any other State; may acquire, by lease, purchase or conveyance, the property, rights, privileges and franchises, or any interest therein, or any part thereof, of any telegraph company organized under or created by the laws of this or any other State, and may make payments therefor in its own stock, money, bonds or property, or receive payment therefor in the stock, money, bonds or property of the corporation to which the same may be so sold, loaned or mortgaged, or conveyed, or of any other corporation or corporations: Provided, however, That no such purchase, sale, lease or conveyance by any corporation shall be valid until the written consent of the holder or holders of a majority of the capital stock shall have been obtained.

SEC. 7. The stock subscribed for may be issued at such price of subscription, and upon such terms of payment or exchange, as the holder or be issued. holders of a majority of the stock at such time shall determine, except that the first subscription price, terms of payment, or exchange, shall be fixed by the persons first above named; and any corporation or corporations may subscribe for, purchase, hold, sell or convey the capital stock of this corporation, as often, and to as great an extent, as such corporation or corporations may deem advisable.

Stock may

issue

veyance.

Persons injuring property of said company—how punished

SEC. 8. That said corporation may issue bonds for such an amount as the officers shall fix, and may secure the same by a mortgage upon so May bonds securious much of the property, rights, privileges and franchises of said corporated by mort- tion as may be named in such mortgage, which mortgage may be recorded by mort- tion as may be named in such mortgage, which mortgage may be recorded by mort- tion as may be named in such mortgage, which mortgage may be recorded by mort- tion as may be named in such mortgage. in the office of the Register of Mesne Conveyance in the County of To be recor. Richland, in this State, and thereupon and thereafter it shall become ded in omce and be a lien upon all the property, rights, privileges and franchises, or of Register of a state of the Mesne con- of any interest therein, and of any part thereof, described in said mort-

SEC. 9. Any person who shall willfully and maliciously injure, molest or destroy any of said lines, posts, piers or abutments, or the materials or property belonging thereto, shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment in the Penitentiary at hard labor not exceeding one year, or both, in the discretion of the Court before which the conviction shall be had, and, in addition thereto, shall pay such damages as shall be caused by him or her, to be recovered in a civil action by said corporation.

Rates of transmission.

punished.

SEC. 10. The Board of Directors, as often as the interests of the corporation shall require, are hereby authorized to, and shall, fix the rate or rates for transmission or delivery of any message or messages, which may be required to be paid in advance.

Div ulging communica-tions—how

SEC. 11. Any person connected with such telegraph company, either as operator, messenger, agent, servant or clerk, or in any other capacity, who shall willfully and maliciously disclose, divulge or communicate, or permit the same to be done, the contents, or the nature of the contents, of any private message or communication entrusted to or left with him, or her, or such corporation, for transmission or delivery, other than to the party or parties entitled thereto, or who shall willfully refuse or neglect to transmit or deliver the same, he or she shall, upon conviction before any Court, be adjudged guilty of a misdemeanor, and shall suffer imprisonment in the County Jail or Work House where such conviction shall be had, for a term of not more than three months, or shall pay a fine not to exceed five hundred dollars, or both, in the discretion of the Court.

Sec. 12. All Acts or parts of Acts contrary to or inconsistent with this Act are, for the purposes of this Act, but for no other purpose, hereby

Sec. 13. This Act shall take effect immediately. Approved March 7, 1871.

No. 377. AN ACT TO CREATE A DEBT OF THE STATE OF SOUTH CAROLINA, TO BE KNOWN AS THE STERLING FUNDED DEBT; THE SAME, OR THE PRO-CEEDS THEREOF, TO BE EXCLUSIVELY USED IN EXCHANGE FOR, OR IN PAYMENT OF, THE EXISTING PUBLIC DEBT OF SAID STATE.

Governor may borrow money.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Governor of the State be, and he is hereby, authorized to borrow, on the credit of the State of South Carolina, a sum not exceeding one million two hundred thousand pounds

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sterling; such debt to be represented by coupon bonds; the same to bear six pounds per centum per annum interest, in gold, payable semiannually; the principal and interest thereof to be payable in the city of London, in England, and the principal thereof to he redeemable and payable within twenty years from the passage of this Act, in gold coin.

SEC. 2. Such debt, hereby authorized, shall be known as the Sterling Funded Debt. The bonds to be issued in pursuance hereof shall be issued. signed by the Governor, and countersigned by the State Treasurer, under the seal of this State. They may be issued in sums of not less than one hundred pounds sterling. The coupons attached to such bonds shall be signed by the State Treasurer, or executed in such manner as the Governor of the State may approve, his signature to said bonds being evidence of such approval.

SEC 3. That all of the bonds authorized by this Act, or their proceeds, shall be used exclusively in exchange for, or in payment of, the existing

Public Debt of this State heretofore authorized.

SEC. 4. That all the bonds hereby authorized shall be placed in the hands of a Financial Agent of this State, to be appointed by the Governor, Attorney-General, Treasurer, Comptroller-General and Secretary of State: Provided, That said Financial Board shall receive no compensation. Such agent shall reside in the city of London aforesaid; and the Financial Board hereinbefore authorized, or a majority of them, through the Financial Agent of the State, in New York, are hereby authorized and directed to enter into an agreement with such Financial Agent as may be appointed, as aforesaid, for the negotiation of said bonds; for the payment of the interest thereon until the maturity thereof; for the payment of said bonds at maturity, and for the exchange of the same for any of the public debt of this State, or for the payment of any of said public debt, from the proceeds of such new bonds as they may deem to be for the interest of this State: Provided, That none of the existing public debt, as aforesaid, shall be paid before the maturity thereof out of the proceeds of the bonds hereby authorized, unless the same can be purchased and redeemed at a rate not exceeding the rate at which such new bonds shall be negotiated; and, for the purposes of this Act, and in payment of interest on said bonds, and in the redemption thereof, the pound sterling shall be deemed to be the equivalent to five dollars in gold coin of the United States: Provided, That the Financial Agency created by this Act shall not be placed in the hands of any one person, but shall be entrusted to the management of a responsible Banking House of first class reputation in the new and old world

SEC. 5 That an annual tax, in addition to all other taxes, shall be to be levied levied upon all the taxable property within this State sufficient to pay for payment the interest on the debt hereby authorized, at the time when such interest of interest. shall become due and payable, and such interest shall be remitted to said Financial Agent in London, and a further similar tax shall be levied in the same manner, sufficient to provide for a Sinking Fund of two per centum in gold per annum on the full amount of the debt hereby created, which Sinking Fund shall be remitted to the said Financial Agent of the State in London, to be applied to the redemption and pay- to be redeemment of two per centum of the principal of the said bonds at par. bonds thus to be paid shall be annually drawn, by lot, at such time and place, and under such regulations, as the Governor of the State and Fi-

A. D. 1871.

How bonds

Financial Board—whom to consist of.

Proviso.

Further pro-

How bonds



nancial Agent may determine, and on all such drawings the American Minister to the Court of St. James, in England, or the Secretary of the American Legation, in London, or the American Consul, at London, shall be invited to be present, and to certify to such drawings.

Bonds redeemed to be cancelled.

SEC. 6. From time to time, and when any of the existing public debt of this State shall be redeemed by the exchange of the bonds hereby authorized, or shall be paid from the proceeds thereof, such debt, so redeemed or paid, and the evidence thereof, shall be forthwith absolutely cancelled, and shall not be re-issued in any form; and the total amount thus redeemed, or paid, shall be annually reported by the Comptroller-General.

SEC. 7. That the faith, credit and funds of the State of South Carolina are hereby solemnly and irrevocably pledged for the punctual payment of the principal and interest of the debt hereby created, and for the annual redemption of that portion thereof for which a sinking fund is authorized; and the issue by the Governor of any of the bonds hereby authorized shall be conclusive evidence, in favor of any bona fide holder thereof, that the provisions of this Act have been fully complied with by the State officers, and that such bonds are legally and properly created.

No new debt to be created until this is paid.

Sec. 8. The honor and credit of this State is also hereby pledged to the holder of the debt authorized by this Act that this State will not hereafter, by itself, officers or agents, until said debt is fully paid and discharged, create any new debt or obligation, or by the loan of its credit, by guaranty, endorsement or otherwise, excepting for the purpose of meeting its existing obligations, or in and for the ordinary and current business of the State, without first submitting the question as to the creation of any such new debt, guaranty, endorsement or loan of its credit to the people of this State at a general State election, and, unless two-thirds of the qualified voters of the State voting on this question shall be in favor of a further debt, guaranty, endorsement or loan of its credit, none such shall be created or made.

Sec. 9. The Commission herein appointed, or a majority of them, are hereby authorized to pay such sums as may be necessary for the purpose of carrying this Act into effect, out of any funds of the State not otherwise appropriated.

SEC. 10. For the purposes of this Act, and to carry out the same, all Acts, or parts of Acts, inconsistent with this Act, are hereby repealed.

Approved March 7, 1871.

No. 378. AN ACT TO ESTABLISH THE CHARLESTON CHARITABLE ASSOCIA-TION, OF THE STATE OF SOUTH CAROLINA, FOR THE BENEFIT OF THE FREE SCHOOL FUND.

Section 1. Be it enocted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Corporators. bly, and by the authority of the same, That R. H. Willoughby, F. H. Frost, J. P. Horbach, M. J. Hirsch and Oscar B. Little, of South Carolina, and their associates or partners, shall have the full right, and are hereby authorized, to form themselves into a partnership association, to

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be known under the name and style of R. H. Willoughby and Company,

or such other names as they may now or hereafter assume.

Sec. 2. That all the rights of corporations known as banks be, and business of the same are hereby, vested in the said firm, for the purpose of loaning corporation. out money on interest, purchasing and mortgaging real estate, buying personal property; and they shall have the same rights and privileges now enjoyed by the banking institutions of this State; they shall also have the right to dispose of any and all such property, real, personal or mixed, that they may become possessed of, in any manner, and on such conditions, as the said firm or association may deem fit and proper and to the advantage of said firm, and to promote the interest of the said School Fund of the State of South Carolina.

SEC. 3. Be it further enacted, That, before commencing business under license fee of the provisions of this Act, said firm shall pay, or cause to be paid, into school purthe hands of the State Superintendent of Education, the sum of one poses. thousand dollars, (\$1,000,) to be used for the benefit of the free schools of South Carolina, and annually thereafter a like amount, for the term of ten years, or so long as said partnership shall choose to do business, it being understood and agreed that said payment of one thousand dollars per annum by said association is the consideration upon which the privilege of incorporation herein is granted; and whenever said company, or firm, or association, shall fail to pay said consideration, then their right to transact business shall cease.

SEC. 4. That the association, company or firm incorporated and established by this Act shall have full power, and are hereby authorized, to establish agencies throughout the State.

SEC. 5. That this Act shall be of force immediately on and after its

passage.

Approved March 8, 1871.

AN ACT TO FURTHER AMEND AN ACT ENTITLED "AN ACT PROVI-DING FOR THE ASSESSMENT AND TAXATION OF PROPERTY."

No. 379.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act entitled "An Act providing for the assessment and taxation of property," be, and is hereby, further amended as follows:

Amended in

Strike out from Section 3, paragraph 16, the word "September," and insert "July;" also, in paragraph 17, the word "November," and insert " August."

Section 3, Par. 16 and 17.

Strike out, from Section 7, the words "September" and "October," in lines two and three, and insert "July" and "August;" also, in lines six and nine, strike out "September," and insert "July;" also, in line five of Section 7, between the words "oath" and "of," insert "of all the real estate which has been sold or transferred since the last listment of property, for which he was responsible, and to whom, and."

Section 7, lines 2 and 3.

Line 5.

Strike out, from Section 8, the word "September," and insert "July." Strike out, from Section 9, the word "September," and insert "July."

Section 8. Section 9.



Section 66.

Section 67.

Section 68.

Section 69.

Section 72.

Section 75.

A. D. 1871. Strike out, from Sections 10, 11 and 12, the words "September" and "October," and insert "July" and "August"

Strike out, from Section 17, the word "November," and insert "Sep-Section 17. tember."

Strike out, from Section 19, the word "October," and insert "August." Section 19. Strike out, from Section 20, the words "September" and "October," Section 20.

and insert "July" and "August." Strike out, from Section 21, wherever it appears, the word "October,"

Section 21. and insert "August;" also, the word "September," and insert "July;" also, the word "November," and insert "September." Section 23. Strike out, from Sections 23 and 31, the words "September" and "Oc-

tober," and insert "July" and "August." Strike out, from Section 33, the word "September," and insert "July." Section 33.

Strike out, from Section 37, the words "September" and "October," Section 37. and insert "July" and "August." Section 39.

Strike out, from Section 38, the word "August," and insert "June." Strike out, from Section 41, the words "September" and "October," Section 41. and insert "July" and "August."

Strike out, from Section 50, the words "Monday of September, and Section 50. second Monday in October," in the fourth line, and insert "the second Monday of July," and "second Monday in August;" also, in line five, strike out "September," and insert "July;" also, in lines fourteen and twenty-one, strike out "October," and insert "August."

Strike out, from Section 51, the word "September," and insert "July." Section 51. Strike out, from Section 52, the word "October," and insert "August;" Section 52 also, in line five, between the words "listed and," and insert "giving the first Christian name of the several persons."

Section 56. Strike out, from Sections 56, 57 and 58, the word "September," and insert "July."

Strike out, from Section 63, all after the word "the," in line one, to Section 63. "eighteen," in line two, and insert "September first." Section 65.

Strike out, from Section 65, the words "second Monday of December," and insert "last Monday in August."

Strike out, from Section 66, all after the word "the," in line one, to "one," in line two, and insert "thirtieth of September;" also, between "State" and "an," on the fourth line, insert "and the County Commissioners;" also, strike out, from Section 66, line two, the words "sixtyeight," and insert "seventy-one."

Strike out, from Section 67, all after the word "on," in the fifteenth line, to the word "one," in the sixteenth line, and insert "or before the 5th of October;" also, strike out the words "sixty-eight" wherever they occur in the Section, and insert "seventy-three."

Strike out, from Section 68, all after the word "the," in the fifth line, to "annually," in the sixth line, and insert "second Monday of Septem-

Strike out, from Section 69, all after the word "County," on fifth line, to the word "and," on sixth line, and insert "on the first Monday in September."

Strike out, from Section 72, all after the word "the," in the sixteenth line, to "annually," in the same line, and insert "November 15th."

Strike out from Section 75, line twenty, the word "January," and insert "November."

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Strike out, from Section 79, the words "the first day of March," and insert "the fifteenth day of January;" also, strike out the word "April," and insert "February;" also, the words "twentieth day of May," and insert "the second Tuesday in March."

A. D. 1871. Section 79.

Strike out, from Section 80, the word "March," and insert "January." Strike out, from Section 89, the words "the 10th of November," and

Section 80. Section 80.

Section 90.

insert "the 10th of September."

Amend Section 90 by adding: "And provided, further, That each County Auditor shall keep a record of all sales of conveyances of real property made in his County, in which he shall enter, in columns, the names of the purchaser and seller, the quality of land conveyed, the location and price of the same, and therefrom correct the County duplicates annually; and for the purpose of carrying out this provision, the Clerks of Courts and Registers of Mesne Conveyance of each County are hereby required to have the endorsement of the County Auditor on each and every deed of conveyance for real property, that the same is on record in his office, before the same can be placed on record in the offices of said Clerks of Courts or Registers of Mesne Conveyances, and the said County Auditor shall be entitled to collect a fee of twenty-five cents, for his own use, for making such entry and endorsement"

Section 91.

Strike out, from Section 91, the words "the fifteenth day of January," and insert "November twentieth."

Section 92.

Strike out, from Section 92, the words "first Tuesday in May," and insert "15th of January."

Section 94.

Strike out, from Section 94, the words "first week in September," and insert "the second week in June;" also, the words "the first," in sixth line, and insert "the last."

Section 95.

Strike out, from Section 95, the words, "the first day of March," and insert "the 15th of January."

Section 96.

Strike out, from Section 96, all from the word "taxes," in second line, and insert "from November 20th to March 20th."

Section 97.

Strike out, from Section 97, the words "first day of March," and insert "fifteenth of January;" also, strike out "the 20th day of May," and insert "the fifteenth of February."

Section 101.

Strike out, from Section 101, the word "July," and insert "April." Strike out, from Section 105, the word "June," and insert "March." Strike out, from Section 106, the words "the twentieth day of May," and insert "the fifteenth of February."

Section 105. Section 106.

Strike out, from Section 107, the words "the twentieth day of May," and "the second Tuesday in June," and insert "the tenth of February" and "the first Monday in March;" also, on the twelfth line, strike out

Section 107.

"June," and insert "March." Strike out, from Section 108, the words "second Tuesday in June," and insert "first Monday in March."

Section 108.

Strike out, from Section 112, the word "July," and insert "April." Strike out, from Section 132, the words "twentieth day of October," and insert "the last day of August."

Section 112. Section 132.

Add to Section 145 the following words:

Section 145.

"The State Auditor is hereby authorized to have the City of Charleston surveyed and numbered, and to place the numbers in a conspicuous place in front of the buildings or lots. And it shall be a penal offence for the landlord, agent or tenant, to remove the same."



Section 147.

Strike out, from Section 147, all after "147," and insert "the pay of Assessors shall in no instance be more than three dollars per day for each day actually and necessarily employed in the performance of the duties enjoined upon them in this Act.

Repeal ing clause.

Sec. 2. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

Sec. 3 This Act shall take effect on and after the tax levy shall be made for the fiscal year of 1871.

Approved March 8, 1871.

No. 380. AN ACT TO AMEND AND EXTEND THE CHARTER OF THE PLANTERS' AND MECHANICS' BANK OF SOUTH CAROLINA, AND FOR OTHER Purposes Therein Named.

Preamble.

Whereas the capital of the Planters' and Mechanics' Bank of South Carolina has been reduced, by losses, from one million of dollars to one hundred thousand dollars, whereby the shares, originally worth twentyfive dollars each, are, at the present time, worth, in reality, but two dollars and fifty cents each; and the President and Directors of the said Bank have petitioned for leave to consolidate their said shares at that

rate, so as to bring them up to their original par value:

new shares.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-May redeem bly, and by the authority of the same, That the Board of Directors of old and issue the said Royle he and the said Royle he and the said Royle he are the said Royle the said Bank be, and they are hereby, authorized to consolidate the shares of the said Bank, by calling in their said shares, and issuing one share of the par value of twenty-five dollars for every ten of their present shares, so that the number of shares shall be reduced from forty thousand to four thousand: Provided, however, That the said Bank shall, at the request of stockholders now holding less than ten shares, redeem the said shares at the rate of two dollars and fifty cents per share. SEC. 2. That the said Board of Directors, before reducing and con-

To give public notice thereof.

solidating the said shares, shall give at least thirty days' public notice, in one or more of the newspapers of the city of Charleston, of their intention so to consolidate, reduce and redeem the stock of the said Bank; and, from and after the day fixed and so publicly notified for the said consolidation, reduction and redemption of the said shares, no one shall be considered or held to be a stockholder of the said Bank who has not received a new certificate for the consolidated shares at twenty-five dollars per share: Provided, always, That the holder of any number of original shares under ten shall be at liberty to sell and assign the same to whomsoever he may choose, by endorsement upon the certificate held by him, which endorsement shall, without transfer at the Bank, entitle the assignee to demand the redemption of the said shares or the consolidation of them, whenever he has acquired or holds ten or more shares, at the price or rate as in the first Section of this Act provided.

May increase the number of shares.

SEC. 3. The said Board of Directors are hereby further authorized and empowered, from time to time, to increase the number of shares and the capital of the said Bank at any time after thirty days' notice of their intention so to do, published in one or more of the newspapers of

the city of Charleston, to a number not exceeding in the whole twenty thousand shares, each share to be of the par value of twenty-five dollars, and to open books of subscriptions for such additional shares, under such regulations as they shall prescribe: Provided, always, That the stockholders shall have preference in subscription to the increased stock, in proportion to the amount then held by them.

A. D. 1871.

Proviso.

SEC. 4. The said Bank is hereby further authorized to receive deposits, in such sums, and at such times, as the Board of Directors may state, by public advertisement, and pay the same, with a stipulated rate of interest upon them, at stated periods, the interest to be paid in money, or to be placed at the credit of said depositors, upon the same terms and condi-

May receive

tions as the original deposits

SEC. 5. The present charter of the Bank is hereby altered and amended, as in the previous Sections of this Act is provided, and in all other respects the said charter is hereby confirmed as if those provisions had been originally incorporated in the said charter, and the said charter is also extended for a period of twenty-one years beyond its present termination.

SEC. 6. That all other powers herein conferred upon the Board of Directors of the Planters' and Mechanics' Bank be, and the same are hereby, conferred upon the Board of Directors of the Bank known as the Union Bank of South Carolina, which charter is also hereby amended and extended in the same manner, and that they shall have the same powers as are herein conferred.

Sec. 7. That the charter of the People's Bank of South Carolina be, Bank. and the same is hereby, renewed for the term of twenty-one years from and after the sixteenth day of December, which shall be in the year of our Lord one thousand eight hundred and seventy-three.

Peoples'

Sec. 8. That the said Bank, during said term of twenty-one years, shall enjoy all the privileges, rights, powers, immunities and benefits which it now enjoys under the existing charter of said Bank.

SEC. 9. That this Act shall be deemed a public Act

SEC. 10. That this Act shall not be construed to exempt any of the Banks named from State or municipal taxation.

Approved December 9, 1870.

· AN ACT TO AMEND AN ACT ENTITLED "AN ACT PROVIDING FOR THE Assessment and Taxation of Property," Passed September 15, 1868, AND ALL ACTS AMENDATORY THERETO.

No. 381.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That so much of an Act entitled "An Act providing for the assessment and taxation of property," approved 15th of September, 1868, and all Acts amendatory thereto, as provides for the appointment and pay of District Assessors, and assistants, be, and the same are hereby, repealed; and hereafter it shall be the duty of the County Auditors to receive the returns and make the assess-ditors to ments provided for in said Act, within the times prescribed by law, and make assessfor this purpose the offices of the County Auditors shall be kept open to

receive the returns of tax payers during such times as now, or may be hereafter, fixed by law.

May appoint assistants.

· Compen sa

tion for such

assistants -- how to be ob-

tained.

Sec. 2. That the various County Auditors be, and they are hereby, authorized to appoint a sufficient number of assistants to enable them to complete the said assessment within the time fixed by law, and, to defray the expense of making said assessment, the said Auditors shall draw their warrants annually upon the County Treasurers, to be approved by the County Commissioners, for such sums as may be necessary, but not to exceed the following, to wit: The Auditor of Charleston County, two thousand dollars; the Auditors of Richland, Orangeburg, Edgefield, Beaufort, Barnwell, Colleton and Abbeville Counties, one thousand dollars; the Auditors of Chester, Darlington, Fairfield, Greenville, Marion, Sumter and York Counties, eight hundred dollars; the Auditors of Georgetown, Kershaw, Laurens, Lexington, Newberry, Spartanburg and Union Counties, seven hundred dollars; the Auditors of Chesterfield, Clarendon, Marlboro and Williamsburg Counties, six hundred dollars; the Auditors of Anderson, Horry, Lancaster, Oconee and Pickens Counties, five hundred

Persons failturns.

dollars each.

SEC. 3. That whenever any tax payer shall fail to make returns to the ing to make required re. Auditor of his County within the time prescribed by law, it shall be the duty of the County Auditor to enter on the tax duplicate, against such tax payer, the property charged to him the previous year, with fifty per cent penalty added thereto, except in cases of sickness, or absence from the County, when the true amount of property only shall be charged. Approved March 9, 1871.

Penalty.

No. 382. AN ACT TO GRANT, RENEW AND AMEND THE CHARTERS OF CERTAIN TOWNS AND VILLAGES THEREIN MENTIONED.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same:

> > Village of St. Stephens.

St. Stephens.

That from and after the passage of this Act, all citizens of this. State having resided twelve months within this State and sixty days in the village of St. Stephens, shall be deemed, and are hereby declared to be, a body politic and corporate, and the said village shall be called and known by the name of St. Stephens, and its corporate limits shall extend of three-fourths of a mile in each direction from the Depot of the North-

Limits town.

eastern Railroad. Sec. 2. That the said village shall be governed by an Intendant and four Wardens, who shall be citizens of the United States, and who shall

have resided in this State twelve months, and shall have been residents of the said village sixty days immediately preceding their election, and who Election of shall be elected on the fourth Monday in March, 1871, and on the same Intendant and Wardens. day in each year thereafter, ten days' public notice thereof being previously given; and that all male inhabitants of the age of twenty-one

years, citizens of the State, and who shall have resided within the State twelve months, and in the said village sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens,

paupers and persons under disabilities for crime excepted.

SEC. 3 The said election shall be held at some convenient public place in said village, from eight o'clock in the morning until four o'clock in the afternoon, and when the polls shall be closed the Managers shall forthwith count the votes and declare the election, and give notice thereof, in writing, to the Intendant therein being, who shall, within two days thereafter, give notice, or cause the same to be given, to the persons duly elected: Provided, The Commissioners of Election of Charleston County shall call the first election under this Act, and shall appoint Managers to conduct the same, who shall make return thereof to the Commissioners, the same as other elections held in this State. And the said Commissioners shall count the votes and declare the election, and notify the persons so elected Intendant and Wardens of the said village. The Intendant and Wardens, before entering upon the duties of their offices, shall, respectively, take the oath prescribed by the Constitution of the State, and, also, the following oath, to wit: "As Intendant (or Warden) of the Oath of office. village of St. Stephens, I will equally and impartial y, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected: So help me God." And if any person, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay to the Council the sum of twenty dollars for the use of the said village: Provided, That no person who has attained the age of sixty years shall be compelled to serve in either of said offices; nor shall any other person be compelled to serve, either as Intendant or Warden, more than one year in any term of three years. The Intendant and Wardens, for the time being, shall always appoint one or more Boards of Managers, three Managers for each Board, to conduct the election, who, before they open the polls, shall take an oath fairly and impartially to conduct the same.

SEC. 4. That in case a vacancy shall occur in the office of Intendant, or any of the Wardens, by death, resignation, removal, or otherwise, an election to fill such vacancy shall be held, by order of the Intendant and Wardens, or a majority of the same, ten days' public notice being previously given; and in case of sickness or temporary absence of the Intendant, the Wardens forming the Council shall be empowered to elect

one of the number to act as Intendant during the time.

SEC. 5. That the Intendant and Wardens, duly elected and qualified, shall, during their term of service, severally and respectively, be vested with all the powers of Trial Justices, or Justices of the Peace, as the case may be, in this State, within the limits of the said village, except for the trial of small and mean causes; and the Intendant shall, or may, as often as is necessary, summon the Wardens to meet in Council, any three of whom, with the Intendant, shall constitute a quorum to transact business; and they shall be known as the Town Council of St. Stephens; and they, and their successors in office hereafter to be elected, may have a common seal, which shall be affixed to all of their ordinances; may sue and be sued, plead and be impleaded, in any Court of justice in this State, and purchase, hold, possess and enjoy, to them and their successors, in perpetuity,

A.D. 1871.

Where and when held.

Vacan c y -

Corporate rights gene-

alien or convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars. And the said Town Council

the common jail of the County of Charleston, for the confinement of all who may be subject to be committed for a violation of any

A. D. 1871.

shall have authority to appoint, from time to time, as they may see fit, such and so many proper persons to act as Marshals or Constables of said village as the said Council may deem necessary and expedient for the preservation of the peace, good order, and police thereof, which persons, so appointed, shall, within the corporate limits of said village, have the power and privileges, and be subject to all the obligations, penalties and regulations, provided by law for the office of Constable, and shall be liable to be removed at the pleasure of said Council. And the said Town Council shall have power to establish, or authorize the establishment of a market house in said village, also to authorize the establishment of a guard house, and to prescribe suitable rules and regulations for keeping and governing the same; and, until the said guard house be established, they shall be authorized to use a room in

Market and guard house.

Marshalsduties, &c.

ordinance, rules and regulations of said town. And the said Town Council, or the said Intendant and Wardens, in person, any one or more of them, may authorize and require any Marshal of the town, or any Constable specially appointed for that purpose, to arrest and commit to the said guard house or jail of Charleston County, as the case may be, for a term not exceeding twenty-four hours, any person or persons who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or any conduct grossly indecent, or dangerous to the citizens of said town, or any of them. And it shall be the duty of the Town Marshal or their powers, Constables to arrest and commit all such offenders, when required so to do, and who shall have power to call to their assistance the posse comitatus, if need be, to aid in making such arrest; and, upon the failure of said officers to perform such duty as required, they shall, severally, be subject to such fines and penalties as the Town Council may impose upon And all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said costs and expenses shall be collected in the same manner as is provided for the collection of fines imposed for the violation of ordinances, rules and regulations: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose for the offence which he, she or they may have committed. And the said Town Council shall have full power and authority, under their corporate seal, to make all such rules and regulations, by-laws and ordinances, respecting the streets roads, and the business thereof, as well as the police system of the said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for preserving health, order and good government within said town. And the said Town Council may impose fines for offences against their by-laws, rules and regulations and ordinances, and appropriate the same to the public use of said town; and the said Town Council shall have the same power that Trial Justices or Justices of the Peace now have, or may hereafter have, to compel the attendance of witnesses, and requiring them to give evidence upon the trial before them of any person or persons for a violation of any of their ordinances, by-laws, rules or regula-

tions; but no fine above the sum of twenty-five dollars shall be collected by said Council, except by suit in the proper Courts of Justice in this State; and, also, that nothing herein contained shall authorize said Council to make any ordinance or by-law inconsistent with, or repugnant to, the laws of the State.

A. D. 1871.

Abate nui-

Streets, ways and roads.

Persons liable to public work.

Close and open streets.

Proviso.

Sidewalks.

SEC. 6. That the said Intendant and Wardens, or a majority of them, shall have power to abate and remove all nuisances in said town; and it shall be their duty to keep all roads, ways, bridges and streets in said town open and in good repair; and for that purpose they are invested with all the powers of County Commissioners or Commissioners of Roads, for and within the corporate limits of the said town; and they may lay out new streets, close up, widen, or otherwise alter those now in use; and shall have full power to classify and arrange the inhabitants or citizens of said town liable to street, road or other public duty therein, and to force the performance of such duty under such penalties as are now, or shall hereafter be, prescribed by law; and they shall have power to compound with all persons liable to work the streets, ways and roads in said town, upon such terms as their ordinances or by-laws may establish, or their rules and regulations require, the moneys so received to be applied to the public uses of said town; and all persons refusing to labor, or failing to pay such commutation, shall be liable to such fine, not exceeding twenty dollars for any one year, as the said Town Council may impose; and they shall have the power to enforce the payment of such fine in the same manner as is now, or may be hereafter, provided for the collection And the said Town Council shall have power, with of County taxes. the consent of the adjacent land owners, to close all such roads, streets and ways within the said town as they may deem necessary, by the sale of the freehold therein, either at private or public sale, as they may adjudge best for the interest of the said town; and they shall keep in repair all such new streets, roads and ways as they may, from time to time, deem necessary for the improvement and convenience of said town: Provided, That no street, road or way shall be opened without first having obtained the consent of the land owner or owners thereof, through whose premises any such new street, road or way may pass.

SEC. 7. The said Town Council shall have power and authority to require all persons owning a lot or lots in said town, to close in, and to make and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any public street of said town, if, in the judgment of the Council, such sidewalk shall be necessary, the width thereof, and the manner of construction, to be designated and regulated by the said Town Council; and for default or refusal, after reasonable notice, to make and keep in good repair such sidewalks, and to close such lot or lots, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing; and the said Town Council are hereby empowered to sue for and recover the same, by action of debt, in any Court of competent jurisdiction: Provided, That such contract for making or repairing is let to the lowest bidder. The cemeteries and public graveyards are also placed under the

jurisdiction of the said Town Council.

SEC. 8. The Intendant and Wardens of the said town, or a majority of them, shall have full power to grant or refuse license to keep taverns grant licenses or retail spirituous liquors within the corporate limits of the said town,

Power to

upon such conditions, and under such circumstances, as to them shall seem proper and right: Provided, That, in no instance shall the price of a license to keep a tavern or to retail spirituous liquors be less than the amount that is established by the State; and all moneys paid for licenses and for fines and forfeitures, shall be appropriated to the public uses of said town: Provided, That the Intendant and Wardens, duly elected, shall not have power to grant any license to keep tavern, or retail spirituous liquors to extend beyond the term for which they have been They shall have power to regulate sales at auction within the corporate limits of the town, and to grant licenses to auctioneers, itinerant traders, to keepers of hotels and livery stables; and to levy a tax on all drays, carts, wagons, carriages, omnibuses, buggies. horses, mares or mules, kept for hire, or used for public purposes in said town; and they shall have the full and only power to impose a tax on all shows or exhibitions for gain or reward, within the corporate limits of said town; they shall have power to impose a tax, not exceeding twenty cents on every hundred dollars of the value of all real and personal property lying within the corporate limits of the town, the real and personal property of churches and school and college associations excepted. That an ordi-Annual tax- nance declaring the rates of annual taxation upon property and other subjects of annual taxation for the year, shall be published at least three weeks during the month of January in each year: Provided, That the said Town Council shall have power to levy a tax for this year, under the same rule as is above stated, immediately after the passage of this Act; and that all persons liable to taxation under the same shall make oath of their taxable property within said town, and make payment of their taxes to the Clerk or Treasurer of said corporation, or such other person as they may be ordered or required to do during the succeeding month after publication, and upon the failure to make such return and payment, as required, the parties so in default shall be subject to the penalties provided by law for failure to pay the general State and County tax, to be enforced by the orders of the Intendant and Wardens, or a majority of them, for the use of said town, except. that, in such cases, that executions to enforce the payment of such taxes shall be issued under the seal of the corporation, and may be directed to the Town Marshal, or other person appointed by the said Town Council, to levy, collect and receive the same, with costs, as in such cases made and provided by law; and all property upon which such tax shall be levied and assessed is hereby declared and made liable for the payment thereof in preference to all other debts, except debts due to the State, which shall be first paid; and that all other taxes imposed by the Intendant and Wardens, or a majority of them, shall be payable, in advance, by the parties liable for the same, and, on failure of payment, their property shall be liable for the same, as in manner and form just before stated.

SEC. 9. The Intendant and Wardens elect, together with Clerk and Treasurer, shall, during their term of office, be exempt from street and police duty. Each Town Council shall, within one month after the expiration of their term of office, make out and return to their successors in office, a full account of their receipts and expenditures during their term; which account shall be published in one or more papers of the

town or County; and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and other

papers incident to their office, to their successors; and, on failure to do so, they shall be liable to be fined in a sum not exceeding five hundred dollars, to be collected by any proper action of the Town Council.

Sec. 10. That all ordinances or by-laws passed by the Town Council of St. Stephens shall be binding upon the citizens of said town, the same

as the laws of the State.

Sec. 11. That all Acts and parts of Acts inconsistent with, or supplied

by, this Act, be, and the same are hereby, repealed.

SEC. 12. This Act shall be deemed a public Act, and continue in force for the term of twenty years, and until the end of the Legislature thereafter.

Town of Sumter.

SEC. 13. That from and immediately after the passage of this Act, all and every person, or persons, who are constitutionally qualified to vote for members of the General Assembly of this State, and who may reside within the present corporate limits of the town of Sumter, for sixty days immediately preceding an annual election for Intendant and Wardens, are hereby declared members of the said corporation.

SEC. 14. That the said persons and their successors shall, from and after the passage of this Act, become a body corporate and politic, and shall be known and called by the name of the Town of Sumter; they shall have a common seal, may sue and be sued, implead and impleaded, in any Court of law or equity in this State, and may purchase, hold, possess and enjoy, to them and their successors, in perpetuity, or for any term of years, any estate, real, personal or mixed.

SEC. 15. That the municipal offices of said town shall be, and are Government hereby, vested in an Intendant and four Wardens, to be chosen as here- of town. inafter mentioned and directed, who shall be denominated the Intendant and Wardens of the town of Sumter, and shall be persons who actually reside within the limits of said corporation, and have so resided at

least sixty days immediately preceding their election.

SEC. 16. That on the second Tuesday in April of each year, an election for Intendant and Wardens shall be held at such convenient place, or places, within said town, as may be designated by said Intendant and Wardens; at which election all such persons as have been before declared members of the said corporation shall be entitled to vote by general ballot.

SEC. 17. That the Intendant and Wardens duly elected and qualified, Oath of office. as above directed, before they enter upon the duties of their office, shall, in addition to the oath prescribed in Section 30 of Article II of the Constitution, take the following oath, to wit: "I, as Intendant (or Warden) of the town of Sumter, do solemnly swear, or affirm, that I will equally and impartially, to the best of my skill and judgment, exercise and discharge the trust reposed in me, and will endeavor to carry into effect the purposes for which I have been elected: So help me God." the said Intendant and any two of the Wardens shall constitute a quorum for the transaction of business; and in case of the death, resignation, or absence from town of the Intendant aforesaid, the said Wardens, how filled. or a majority of them, shall elect from among themselves an Intendant to fill such vacancy occasioned as aforesaid, and that in case of death, re-

Sumter.

Election of

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moval from office, or resignation of any of the said Wardens, then, and in such case, the Intendant and any two Wardens shall appoint a time and place for election of another Warden to fill the vacancy so occasioned, after having given ten days' previous notice of such election.

Town Counpowers and

SEC. 18. That the Intendant may, as often as occasion requires, summons the Wardens to meet together, and the said Intendant and Wardens shall have, and are hereby vested with, full and ample power, from time to time, under their corporate seal, to make all such ordinances, rules and regulations relative to the streets, roads, ways and market of the said town, as they may think proper and necessary, and establish such by-laws as may tend to preserve the quietude, peace, safety and good order of the inhabitants thereof, not inconsistent with the Constitution and laws of the State, and that they may impose fines and penalties for the violation thereof, which may be recovered in a summary way before the said Intendant and Wardens, as hereinafter provided; and each and every one of them shall be a Magistrate or Trial Justice, or Justice of the Peace, as either of such offices shall exist in this State, within the limits of the said town, and shall otherwise be vested with all power and authority that such officer may be vested with throughout the State, except in civil cases: Provided, nevertheless, That all such ordinances, bylaws, rules and regulations so made, be duly promulgated, and that no such fine, in any one case, and for any single offence, shall exceed the sum of fifty dollars.

How fines may be re-

covered.

Judicial

powers.

SEC. 19. That when any fine imposed by the said Intendant and Wardens, by virtue of this Act, shall exceed twenty dollars, the same may be recovered before any Magistrate, Trial Justice, or Justice of the Peace for Sumter County; and when such fine shall be for twenty dollars, or under, they may be recovered before the said Intendant and Wardens, or any three of them; all which fines, when recovered, shall be applied to the uses of said town.

Power to grant licenses

SEC 20. That the said Intendant and Wardens shall have full and exclusive power to grant or refuse licenses to keep taverns, to retail spirituous liquors, or to keep billiard tables within the corporate limits of said town, and to regulate the prices of the same: Provided, That the said licenses shall not be fixed at a lower rate than that now or hereafter to be established by law; and they shall have power to impose such restrictions and conditions upon the manner of using and exercising such licenses as they may think proper; and all moneys paid for such licenses, as Court of General Sessions, for retailing or keeping billiard tables, without licenses, within the corporate limits of said town, shall be received by said Intendant and Wardens for the use of said corporation.

Annual taxation.

Sec. 21. That the said Intendent and Wardens shall have power and authority to impose the following annual taxes for the uses and purposes of the said town; that is to say, twenty cents on the value of each one hundred dollars of real estate within the corporate limits of said town, (except the real estate of churches and institutions of learning,) the value of such real estate for taxation to be ascertained and Rate of tax- assessed as hereinafter provided for, not exceeding twenty cents on each one hundred dollars of the proceeds of all sales of goods, wares, merchandise in said town; not exceeding three dollars on each pleasure carriage drawn by one horse; not exceeding five dollars on each pleasure

carriage drawn by two or more horses; not exceeding five dollars on

ation.

each vehicle of any kind kept for hire or profit, and drawn by one horse; not exceeding ten dollars on each vehicle of any kind kept for hire or profit, and drawn by two horses; not exceeding twenty dollars on each vehicle of any kind kept for hire or profit, and drawn by more than two horses; and not exceeding twenty cents upon each one hundred dollars of all sales made at auction or upon consignment, within the corporate limits of said town, except sales made by order of Court, or by process of law, or by executors or administrators.

SEC. 22. The Clerk of the said Town Council shall, annually, make out an assessment, from the books of the County Auditor, of all real estate in the limits of said town for taxation, and shall make return of said assessment to the Intendant and Wardens within one month from

the time of his appointment.

Sec. 23. That an ordinance declaring the rate of annual taxation upon property, and other subjects of annual taxation for the year, shall be published at least three weeks during the month of October, in each year; and that all persons liable to taxation under the same shall make their return, on oath, and make payment of their tax to the Clerk and Treasurer (hereinafter constituted) of the said corporation during the succeeding month of November; and, upon failure to make such return and payment, the parties so in default shall be subject to the penalties now provided by law for failure to pay the general State tax; the said penalty to be enforced by the said Intendant and Wardens for the use of the said town. And that all other taxes imposed by the Intendant and Wardens shall be payable in advance by the parties liable therefor; and that, for non-payment of the same, the party in default shall be subject to the same penalty as hereinbefore set forth in relation to annual taxes.

SEC. 24. That the said Intendant and Wardens are hereby authorized to appoint a Clerk and Treasurer to record proceedings, and collect the taxes imposed under and by virtue of this Act; and it shall be the duty of the said Clerk and Treasurer to collect the same, and, for this purpose, he shall have and exercise all the powers conferred upon County Treasurers. All property upon which a tax shall be assessed is hereby declared and made liable for the payment thereof in preference to all other debts due by the person owning the property at the time of assessment, except debts and taxes due the State, which shall be paid first.

SEC. 25. That in case of sickness or temporary absence of the said Intendant, the Wardens shall be empowered to elect one of their own

number to act as Intendant for the time.

SEC. 26. That the said Intendant and Wardens of the said town of Public scales. Sumter are hereby authorized and empowered to establish and keep up one or more public scales or scale houses, with proper scales and weights for weighing cotton and other articles sold by weight in the said town, by and at the expense of the said town.

SEC. 27. That the said Intendant and Wardens be, and they are hereby, weigher. authorized to appoint one or more public weighers, who shall be sworn by the said Intendant faithfully to perform the duties of said office, and who shall be removable for misconduct or incompetency by said Intendant and Wardens; and when reference is had to any of the public scales used by said weighers, by the authority of said Intendant and Wardens, on the same day that the contract of sale is made, the certificate of public

A. D. 1871.

Assessment.

Who to collect taxes.

Public,

weighers shall be conclusive evidence of the weight of the cotton, or any other article sold by weights, in any Court of justice in which an action shall be pending touching the weight of any such article; and the said Intendant and Wardens are hereby authorized to assess a sum not exceeding ten cents on each bale of cotton, and a proportionate sum on other articles weighed, to be paid by the seller for the use of the said town.

Sec. 28. That the public scales and weights established in pursuance of this Act, shall be the standard to which all others in the said town shall conform; and if any person shall use, in weighing any article whatsoever sold in said town, weights and scales differing from the said standard, such person, on conviction in the Court of Sessions for Sumter County,

shall be fined and imprisoned, at the discretion of the Court.

Guard house

arrest, &c.

Sec. 29. That the said Intendant and Wardens shall have power to to be estable establish and keep a guard house and town prison, and to make all suitable rules and regulations for the proper government of the same; and any of the police, appointed by the said Intendant and Wardens, are author-Power to ized to arrest and commit to the custody of the said guard house or town prison, for a term not exceeding twenty-four hours, any person or persons who may be guilty, within the corporate limits of the town, of a breach of the peace, or of public drunkenness, or of open indecency, or any other disorderly conduct injurious to the peace, safety and good order of the citizens; and the said police shall, whenever necessary, in the discharge of their duty, have authority to call the posse comitatus of the said town to their assistance; and any person so arrested and imprisoned shall be liable to all the costs and expenses of said arrest and imprisonment, and be further liable to any fine which the said Intendant and Wardens may impose for their misconduct.

Licenses.

Sec. 30. That the Intendant and Wardens are hereby authorized and empowered to make such ordinances as they may deem expedient in relation to licensing persons who are, or may be, engaged in and carrying on any business within their corporate limits: Provided, That no ordinance shall be made inconsistent with the Constitution of this State, and laws of the land.

May borrow money.

SEC. 31. That the Intendant and Wardens of the town of Sumter be, and they are hereby, authorized to borrow money, by issuing town stock, from time to time, to the amount of twenty thousand dollars, if so much be necessary, for the purpose of erecting a market and town hall, but never, in any way or form, to make the town liable for exceeding that amount in the aggregate: Provided, That the private property of the citizens of the said town of Sumter shall not be liable, in law or in equity, for the payment of the corporate debts that shall or may be created under the granted powers herein made, or in any other mode than by a regular and uniform taxation.

SEC. 32. That the Intendant and Wardens shall, within twenty days of the expiration of their term of office, make out and publish a full account of their receipts and expenditures, during their term, and shall pay and deliver to their successors all moneys, books, records, papers or

property in their hands, belonging to the corporation.

Time of the election of officers.

SEC. 33. That the first election held after the passage of this Act, the Clerk of the Court of Common Pleas for Sumter County is hereby required to give ten days' public notice of the time and place, or places, of holding said election, and appoint Managers to conduct the same: Provi-

ded, further, That immediately after the close of any election held for the election of Intendant or Wardens, the Managers shall forthwith proceed to count the votes, declare the election, and give notice of the result thereof, in writing, to the persons elected, who, if eligible, shall thereupon qualify.

SEC. 34. That this Act shall be deemed a public Act, and shall contiue in force for fourteen years, and until the end of the next session of

the General Assembly thereafter.

SEC. 35. That all Acts, or parts of Acts, inconsistent with this Act, be, and the same are hereby, repealed.

Town of Wrightsville.

SEC. 36. And be it further enacted, That all persons, citizens of the Wrightsville. United States, who now own, or may hereafter own, dwelling houses in the village of Wrightsville, and those who may occupy such dwelling houses, under lease, shall be deemed, and are hereby declared to be, a body politic and corporate, and that the said village shall be called and known by the name of Wrightsville, and its limits shall be held and deemed to extend three-fourths of a mile in every direction from the

Episcopal Church.

Sec. 37. And be it further enacted, That the said village shall be governed by an Intendant and four Wardens, who shall be elected on the when elected first Monday in March, 1871, and on the same day in every year thereafter an election shall be held for an Intendant and four Wardens, who shall always be persons living within the limits of said village, at such place as the Intendant and Wardens shall designate, ten days' notice being previously given; and that all the male inhabitants of said village, who shall have attained the age of twenty-one years, and have resided therein sixty days previous to the election, shall be entitled to vote for said Intendant and Wardens, the election to be held from seven o'clock in the morning until six o'clock in the afternoon, and when the polls shall be closed the Managers shall proclaim the election, and give notice thereof, in writing, to the persons elected; and that the Intendant and Wardens, for the time being, shall appoint three (3) Managers to hold the ensuing election: Provided, That the present Commissioners of Election do appoint Managers for the first organic election, and that the Intendant and Wardens, before entering upon the duties of their offices, shall take the oath prescribed by the Constitution of this State, and also the following oath, to wit: "As Intendant (or Warden) of Wrightsville, I will equally and impartially, to the best of my skill and ability, exercise the trust reposed in me, and will use my best endeavors to preseve the peace and carry into effect, according to law, the purposes for which I have been elected: So help me God."

Oath of office.

Intendant

SEC. 38. And be it further enacted, That in case a vacancy shall occur in the office of Intendant, or any of the Wardens, by death, resignation, removal from office or absence from the State, an election shall be held, by the appointment of the Intendant and Warden, or Wardens, as the case may be, ten days' previous notice being given; and in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of themselves to act as Intendant during the time

SEC. 39. And be it further enacted, That the Intendant and Wardens, 75

Vacancieshow filled.

A. D. 187L Judicial powers of offi-

duly elected and qualified, shall, during their term of service, severally and respectively, be vested with all the powers of Justices of the quorum of the State, within the limits of said village; that the Intendant shall and may, as often as occasion may require, summon the Wardens to meet him in Council, a majority of whom shall constitute a quorum for the transaction of business, and shall be known by the name of the Town Council of Wrightsville, and they, and their successors in office, may have a common seal, and shall have power and authority to appoint, from time to time, such and so many proper persons to act as Constables within their jurisdiction, according to law, as they shall deem expedient and proper, which Constables shall have all the powers, privileges and emoluments, their powers and be subject to all duties, penalties and regulations provided by the laws of the State for the office of Constables; and the Intendant and Wardens, in Council, shall have power, under their corporate seal, to

> ordain and establish all such rules, by-laws and ordinances, respecting streets, ways, markets and police of said village, as shall appear to them proper for the security, welfare and convenience of said village, and for preserving health, peace, order and good government within the same; and the said Council may affix fines for offences against such by-laws and

ordinances, and appropriate the same to the use of the corporation; but no fine shall exceed fifty dollars, and when fines exceed twenty dollars they may be recovered in the Justices' Courts of Charleston County; and when they are of the amount of twenty dollars or under, the same may be recovered before said Intendant, in Council: Provided, Nothing herein contained shall empower the said Council to ordain or establish any by-laws or ordinances inconsistent with, or repugnant to, the laws of the land; and all such by-laws and ordinances shall, at all times, be

subject to revisal or repeal by the Legislature.

nui-

Abate

sances.

Proviso.

SEC. 40. And be it further enacted, That the said Intendant and Wardens shall have power to abate and remove nuisances within said limits, and, in case of disorderly behavior, the Intendant and Wardens, or any of them, upon view thereof, or upon complaint lodged on oath, are hereby required and authorized to issue warrants against all offenders, and cause them to be brought before them or him, or a Trial Justice of the Peace, within the limits of the town of Wrightsville, and, upon due examination, shall either release, admit to bail, (if the offence be bailable,) or commit to jail such offenders, as the case may require; and the Sheriff of Charleston County is hereby required to receive and keep the persons so committed until discharged by a due course of law; and the said Intendant and Wardens shall, collectively and severally, have jurisdiction within said corporate limits, in all criminal cases, as Trial Justices and Quorums have, according to law.

May build a guard house.

SEC. 41. And be it further enacted, That it shall be the duty of said Intendant and Wardens to keep all roads, streets and alleys within said limits open and in good repair; also to erect a "lock-up," if necessity require; and the said Intendant and Wardens may have power to grant or restrain any license for the sale of intoxicating liquors within the corporate limits of said town, and if said license be granted, as aforesaid, the parties taking out the same, to pay any amount to said corporation that they may assess on said sales, instead of the County treasury; and for that purpose they are invested with all the powers granted by law to the County Commissioners, and, for neglect of duty, shall

Licenses.

OF SOUTH CAROLINA.

be liable to the penalties imposed by law upon County Commissioners for like neglect.

A. D. 1871.

Aiken.

Limits

Town of Aiken.

SEC. 42. And be it further enacted, That the citizens of this State, who may be inhabitants of the Town of Aiken, or owners of freehold therein, within the limits hereinafter prescribed, are hereby declared a body corporate. town. The limits of the said town shall be held and deemed to be in the form of a circle, and a square upon that circle, with the sides of the square touching the circumference of said circle, on the North, East, South and West. said circle to describe a circumference, one mile in all directions, from the central point of the intersection of the Railroad avenue and Union street, as the centre of the said town; and the streets within the limits of the said corporation to remain, in regard to number, location and extent, as now established by law, until altered by lawful authority.

Officers of

SEC. 43. The said town shall be called Aiken, and be governed by an Intendant and six Wardens, to be called the Town Council of Aiken, and by that name have succession of members, keep a common seal, take and hold property, (necessary for corporate uses only,) sue and be sued, implead and be impleaded, and enjoy every right incident to an incorporation.

Sec. 44. That the said Intendent and Wardens shall be always persons who are constitutionally qualified to vote for members of the Legislature in this State; who actually reside within the limits aforesaid, and have so resided at least twelve months immediately preceding their election. Before entering upon the duties of their office, they shall take the following oath, to wit: "I do solemnly swear, (or affirm, as the case may be,) Oath of office. that I am duly qualified, according to the Constitution of the United States, and of this State, to exercise the duties of the office to which I have been elected, (or appointed,) and that I will faithfully discharge, to the best of my abilities, the duties thereof; that I recognize the supremacy of the Constitution and laws of the United States over the Constitution and laws of any State; and that I will support, protect and defend the Constitution of the United States, and the Constituti n of South Carolina, as ratified by the people on the sixteenth day of April, 1868; and I do further solemnly swear, as Intendant (or Warden) of Aiken, that I will equally and impartially discharge the trust reposed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purposes of my appointment: So help me God." The said Intendant and Wardens shall hold their offices from the time of their election until the second Monday in September ensuing, and until their successors shall be elected, and enter on the discharge of their duties.

SEC. 45. That all male persons who are Constitutionally qualified to vote for members of either branch of the State Legislature, and who have been permanent residents in the said town for six months immediately previous to the election in which they offer to cast their votes, or who are owners in their own right of a freehold estate in said town, of which they have been legally seized for three months previous to the election, accompanied with actual residence in the town (which, however, must be periodical, or intended so to be,) for at least one month previous

Electors.



to the election, shall be entitled to vote for Intendant and Wardens of the said town. The Town Council shall also be authorized to prescribe, should they at any time deem it expedient, as a qualification for voting for Intendant and Wardens, the payment of a poll tax not exceeding the sum of one dollar.

Vacancieshow filled.

SEC 46. That in case a vacancy should occur in the office of Intendant, or any of the Wardens, by death, resignation, removal, or otherwise, or in case of a tie in said election, an election to fill such vacancy shall be held, by the appointment of the Intendant and Warden, or Wardens, as the case may be, ten days' public notice being previously given; and the Intendent, in case of his sickness or temporary absence, is authorized and empowered to nominate and appoint any one of the Wardens to act as temporary Intendant, or, failing so to do, the Wardens, forming a Council, shall be empowered to elect one of their number to act in his room during the time.

SEC. 47 The election of the Intendant and Wardens of the said town where and shall be held at the Town Hall, or some other convenient pushall be held. the said town, on the second Monday in September of each and every hall be held. The said town, on the second Monday in September of each and every hall be held. The said town, on the second Monday in September of each and every hall be held. shall be closed, and the Managers shall forthwith count the votes, proclaim the election, and give notice in writing to the persons elected. Intendant and Wardens, for the time being, shall appoint three Managers to hold the ensuing election, and for any subsequent elections; the Managers shall always, in each case, be persons who are able to read and write with facility, and shall, before they open the polls for such elections, take an oath fairly and impartially to conduct the same; and the Managers of such election are hereby authorized and empowered to administer, if they see fit, an oath to any person offering to vote, and to make all other necessary inquiries for the purpose of ascertaining whether such person is qualified to vote under this law.

Judicial powers of officers.

SEC. 48. That the Intendant and Wardens, duly elected and qualified, shall, during their term of service, severally and respectively, within the limits of said town, be vested with all the powers and jurisdiction of Magistrates or Trial Justices of this State, except for the trial of small and mean causes; and the Intendant shall, as occasion may require, summon the Wardens to meet in Council, a majority of whom shall constitute a quorum for the transaction of business. The said Town Council shall have full power, under its corporate seal, to ordain and establish all such rules, by-laws and ordinances respecting the streets, pavements, ways, markets, public buildings, weights, measures, wells, disorderly places, fire department, police, and, in general, every other by-law, as shall appear to them requisite for the security, welfare and convenience of the said town, and for preserving health, peace, cleanliness, order and good government within the same, and to prevent the violation of its ordinances, by ordaining suitable fines, not, however, in any case to exceed the sum of fifty dollars: Provided, That no fine above the sum of twenty dollars shall be collected by the said Council, except by suit in a Court of competent jurisdiction: And provided, further, That no ordinance shall be repugnant to, or inconsistent with, the law of the land; and all ordinances shall be, at all times, subject to repeal by the Legislature.

SEC. 49. The Intendant and Wardens shall have power to elect or

appoint a Marshal, and, if they see fit, a Deputy Marshal, upon such terms as they may deem proper, who shall be duly sworn in by the Intendant, and vested with all the power Constables now have by law, and whose power and authority shall be particularly confined within the limits Constables. of the said town; but whose further power and authority shall also extend to the arresting and taking in custody any person or persons within a distance of four miles in each and every direction, beyond and without the corporate limits, who shall violate any ordinance of the said town: Provided, Said offence be committed within the corporate limits. duties of the Marshal shall be to collect all fines and forfeitures imposed by the Intendant and Wardens, and to enforce and carry into execution and effect the by-laws and ordinances of the said corporation, and who shall be liable to be removed by the said Town Council; and the said Intendant and Wardens shall also have power to establish an ordinance whenever they shall deem it expedient, to ordain and establish a police corps for the said town, the expense of the same to be provided for out of the revenue of the said corporation.

SEC. 50. The Intendant and Wardens shall have power to elect or appoint a Clerk, who shall also be Treasurer, whose duty it shall be to attend all meetings of Council, and make a record in a book kept for duties. that purpose of all the proceedings thereof; to take charge of all papers belonging to Council, and to lodge with the proper officers all summous, executions, &c., and receive returns; to keep a regular account of all receipts and disbursements, which accounts shall, at all times, be accessible to the Intendant or any of the Wardens; and it shall be his duty to make an official semi-annual report to the Council of the state of his accounts, at which times the doors of the Council room shall be open to all the citizens of the said town; and which reports shall be regularly entered in a book kept for that purpose. He shall attend to the publication of all ordinances and other documents ordered by Council to be He shall hold his office for such term as Council may prescribe, not, however, exceeding one year, and shall receive such compensation for his services as Council may enact: Provided, That he may be removed from his office at the pleasure of the said Town Council, and, before entering upon the duties of his office, he shall give bond, in the penal sum of three thousand dollars, for the faithful discharge of the same.

SEC. 51. That the said Town Council shall have power to establish a May establish a destable guard house, and to prescribe, by ordinance, suitable rules and regulations. tions for keeping and governing the same; and the said Town Council may, by ordinance, or said Intendant and Wardens in person, any one or more of them, authorize and require any Marshal, Deputy Marshal or police officer, or any Constable, specially appointed, to arrest and commit to said guard house, or other place of custody, to be designated by the Intendant, for a term not exceeding forty-eight hours, any person or persons who may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or in any conduct grossly indecent or dangerous to the citizens of the said town, or any of them. And it shall be the duty of the Town Marshal or other police officer to arrest and commit all such offenders, and who shall have power to call to their assistance the posse comitatus, if need be, to aid in making such arrests; and, upon failure of said Marshal or police officer

A. D. 1871.

May appoint Marshals and

Proviso.

Public Domain, Google-digitized

A. D. 1871

to perform such duty as required, they shall, severally, be subject to such fines and penalties as Council may establish. And all persons lawfully imprisoned shall pay the costs and expenses incident to their imprisonment, and be subject to such fines as Council may impose for the offence committed.

Sec. 52. That the said Intendant and Wardens shall have full power to abate and remove nuisances in said town.

Roads, ways and streets.

Sec. 53. That it shall be the duty of the said Council to keep all roads, ways and streets within the corporate limits open and in good repair, and for that purpose they are invested with all the powers vested in the County Commissioners; and they shall have full and exclusive power to order out all the hands now liable, or hereafter made liable by the laws of this State, and to require them to work on the respective roads, ways and streets, within the limits of the said corporation, as many days in each year, and to inflict the same fines and penalties for the non-performance thereof, as is by law now inflicted by the different Boards of County Commissioners: Provided, It shall not be obligatory on the Town Council to open any street within the limits of the said town, unless upon the petition of the person applying for the same, alleging that the said street is necessary for his use and accommodation, and that there is no other direct or convenient access for him to the business part of the town; which petition shall be verified by the affidavit of the applicant, and recommended by at least twelve of the taxable inhabitants of the said town. SEC. 54. That said Intendant and Wardens shall have power to com-

Persons liable to work on public roads,

pound with all persons liable to work on said roads, ways and streets, upon the payment of such sums of money as they may deem a fair equivalent therefor, to be applied to the use of the said corporation Intendent and Wardens are hereby individually exempted from the performance of road and street duty, and no person residing within the said town shall be liable to work on any road without the said limits, or to be taxed or assessed for the same.

May grant licenses.

Sec. 55. That the power to grant licenses for billiard tables, to keep taverns, or retail spirituous liquors, within the limits of the said corporation, be, and the same is hereby, vested in the Town Council of Aiken, which licenses shall be granted in the same manner, and upon the same conditions, as they now are, or may hereafter be, under the laws of this State: Provided, That no billiard table kept by the boarding houses and hotels of said town, for the use of borders, shall be subject to a tax, unless the same is also kept for the use of the public generally, and for profit and gain; and all moneys received for licenses, taxes, fines, exhibitions, &c., within the said limits, shall be appropriated to the public uses of said corporation.

May impose

Sec. 56. That all fines and forfeitures imposed by said Town Council, under the power vested by law, shall be collected in the same manner as the general State tax is now by law collected. The Sheriff for the County, for the time being, and his lawful deputies, be, and they are hereby, authorized to execute the process of the said Council of Aiken, as by law the Marshal of said corporation might or should now do, having the same privileges, powers and emoluments, and subject to the same duties and penalties as therein provided: Provided, That all nulla bona costs incident on any execution issuing from said Town Council, and directed to the said Sheriff, shall be paid by said Town Council.

SEC. 57. That the said Town Council of Aiken shall have power to impose, for the use of the said corporation, the following annual taxes: On all real estate within the said limits, except that held for religious or charitable purposes, a tax not exceeding one-quarter of one per cent.; on all sales of merchandise and income arising from factorage, faculties and professions, except the salaries of clergymen of all religious denominations, a tax not exceeding one-eighth of one per cent.; on all wheel carriages kept for hire, a sum not exceeding five dollars each; on all itinerant traders, a tax not exceeding twenty-five dollars; also, to prescribe and fix the tax on all shows and exhibitions, within the limits of said corporation; and the said Town Council shall have power to enforce the payment of all taxes and assessments levied under authority of this Act, against the property of all defaulters, to the same extent, and in the same manner, as is provided by law for the collection of the general State tax, except that the executions may be directed either to the Sheriff, or the Town Marshal, or other person especially appointed by Council to collect the

A. D. 1871. Annual tax-

SEC. 58. And the said Town Council shall be authorized to borrow money for educational and corporate uses only, and to assess each of the corporators in an amount not exceeding twenty-five per cent. on his corporation tax, to aid in the payment of the principal and interest of the said debt: Provided, That the funded debt of the said town shall at no one time exceed the sum of five thousand dollars: And provided, also, That no loan shall be consummated without the previous concurrence of the voters of the said town who are subject to a property tax, to be ascer-

May borrow money.

as is provided in the case of election for Intendant and Wardens. SEC. 59. That the original charter of Aiken, passed on the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, and all Acts amendatory thereof, as well as all others repugnant to this Act, be, and the same are hereby, repealed, and that this Act shall be deemed and taken to be a public Act, and shall continue in force for twenty years.

tained through the medium of the ballot-box, after ten days' public notice,

Town of Williston.

SEC 60. That the charter of the town of Williston, in the County of Barnwell, be, and the same is hereby, renewed and extended for the term of fourteen years from the date of the passage of this Act.

Williston.

Town of Grahams.

SEC. 61. That all persons, citizens of the State of South Carolina, who are now, or who may hereafter become, inhabitants of the town of Grahams, shall be deemed, and are hereby declared, a body politic and corporate, and that said town shall be called and known by the name of Grahams, and its limits shall be deemed and held to extend one-half mile in each direction from the railroad depot in said town.

SEC. 62. That the said town shall be governed by an Intendant and four Wardens, who shall be elected on the first Monday in September and Wardens elecnext, on which day, as well as on the first Monday of September of every tion. year thereafter, an election shall be held for an Intendant and four War-

Intend an t

Grahams.

dens, who shall be citizens of the State of South Carolina, and shall have been residents of said town for sixty days immediately preceding said election, at such place in said town as the Intendant and Wardens shall designate, ten days' notice, in writing, being previously given; and that all male inhabitants of the said town, of the age of twenty-one years, who have resided therein sixty days previously to the election, shall be entitled to vote for said Intendant and Wardens; and the election shall be held from nine in the morning until three o'clock in the afternoon, when the polls shall be closed and the Managers shall count the votes and proclaim the election and give notice thereof, in writing, to the persons elected; and that the Intendent and Wardens, for the time being, shall appoint the Managers to hold the ensuing election; that the Intendant and Wardens, before entering upon the duties of their offices, shall take the oath prescribed by the Constitution of this State, and also the follow-

Oath of office. ing oath, to wit: "As Intendant (or Warden) of Grahams, I will equally and impartially, to the best of my skill and ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes of my appointment: So help me God."

Vacancieshow filled.

SEC. 63. That in case a vacancy shall occur in the office of Intendant, or any of the Wardens, by death, resignation, removal from State, or from any other cause, an election shall be held by the appointment of the Intendant and Warden or Wardens, as the case may be, ten days' notice thereof as aforesaid being given; and in case of the sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of themselves to act as Intendant during such sickness or absence. SEC. 64. That the Intendant and Wardens, duly elected and qualified,

shall, during their term of service, severally and respectively, be vested

Judicial pow-er of said officers.

> with all the powers of other incorporated towns of this State, in matters civil and criminal, within the limits of said town; that the Intendant shall, as often as occasion may require, summon the Wardens to meet him in Council, a majority of whom shall constitute a quorum for the transaction of business, and shall be known by the name of the Town Council of Grahams, and they and their successors in office shall have a common seal, and shall have power and authority to appoint, from time to Constables, time, such and so many proper persons to act as Marshals or Constables as they shall deem expedient and proper, which officers shall have all the powers, privileges and emoluments, and be subject to all the duties, penalties and regulations provided by the laws of this State for the office of Constable. And the Intendant and Wardens, in Council, shall have power and authority, under their corporate scal, to ordain and establish all such rules and by-laws and ordinances respecting the streets, ways, public wells and springs or fountains of water, markets and police of the said town, and for preserving health, peace, order and good government within the same, as they may deem expedient and proper; and the said Council may affix fines for offences against such by-laws and ordinances, and appropriate the same to the use of the corporation, but no fine shall exceed twenty dollars; all fines may be recovered by an action for debt before a proper tribunal.

Nuisances removal of.

SEC. 65. That the said Council shall have power to abate and remove nuisances within the limits of said town; and also to classify and ar-

range the inhabitants liable to police duty, and to require them to perform such duty as occasion may require; and to enforce the performance thereof under the same penalties as are now, or may hereafter be, established by law: Provided, always, nevertheless, That the said Town Council shall have power to compound with persons liable to perform such duties upon such terms as they shall, by ordinance, establish.

SEC. 66. That it shall be the duty of the Intendant and Wardens to Roads, ways keep all streets and ways which may be necessary for public use within and streets. the limits of the said town open and in good repair, and for that purpose they are hereby invested with all the powers, rights and privileges granted by law to the Commissioners of Roads within the limits of said And, for neglect of duty, they shall be liable to the pains and penalties imposed by law upon Commissioners of Roads for like neglect. And they are hereby individually exempt from the performance of road and police duty. And the inhabitants of said town are hereby excused from road and police duty without the limits of said corporation.

SEC. 67. That the said Intendant and Wardens shall have power to compound with persons liable to work on the said streets and ways, and ble to work on the said streets and ways. to release such persons as may desire it, upon the payment of such sum of money as they may deem a fair equivalent therefor, to be applied by

them to the use of the said corporation.

Sec. 65. That the said Town Council of Grahams shall also be empowered to retain, possess and enjoy all such property as they may now be possessed of, or entitled to, or which shall hereafter be given, bequeathed to, or in any manner acquired by them, and to sell, alien, or in any way transfer the same, or any part thereof: Provided, The amount of property so held, or stock invested, shall, in no case, exceed twenty thousand dollars.

SEC. 69. That the said Town Council of Grahams shall also have power to impose an annual tax on all real and personal property within the corporate limits of said town: Provided, Said tax does not exceed

ten cents on the one hundred dollars.

SEC. 70. That the Intendant and Wardens of the Town of Grahams shall have power to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: Provided, That nothing herein contained shall extend to sales by or for Sheriffs, Clerks of Courts, Judges of Probate, Coroners, Executors and Administrators, Assignees, or by any other persons, under the order of any Court or Trial Justice.

SEC. 71. That the Intendant and Wardens of the Town of Grahams shall have power and authority to require all persons owning a lot or lots in the said Town of Grahams to keep in repair the sidewalks adjacent to their lots respectively, and, for default in this matter, shall have power

and authority to impose a fine not to exceed ten dollars.

Sec. 72. That the power to refuse or grant licenses to keep a tavern or to retail intoxicating drinks be, and the same is hereby, vested in the consess. Town Council of the Town of Grahams, and that they be, also, invested with all necessary power, by ordinance or ordinances, to suppress or regulate the sales of intoxicating drinks, to be drank at the place where sold, or in or upon any of its appurtenances, or in or upon any of the highways, streets, lanes, alleys, commons, kitchens, stores, shops, public buildings, booths, stalls or out houses of the said town, or within one-half

A. D. 1871.

Persons liapublic streets

Annual tax-

Sidewalks.

1 i -

mile of the said town: Provided, That no rule or regulation shall be made, inconsistent with the Constitution and laws of the State.

SEC. 73. That this Act shall be taken and deemed as a public Act in all Courts of justice, and shall continue of force until repealed.

Village of Lancaster.

Lancaster.

A. D. 1871.

Sec. 74. That Section first of an Act entitled "An Act to incorporate the village of Lancaster," be, and the same is hereby, amended so as to read as follows: "That the village of Lancaster, extending one mile in every direction from the Court House, be, and the same is hereby, incorporated, by the name of the village of Lancaster."

Town of Cokesbury.

Cokesbury.

Sec. 75. That from and after the passage of this Act, all citizens of this State, having resided sixty days in the Town of Cokesbury, shall be deemed, and are hereby declared to be, a body politic and corporate, and the said town shall be called and known by the name of Cokesbury, and its corporate limits shall extend one mile in each direction from the centre in said town.

Intend a n t and Wardens.

SEC. 76. That the said town shall be governed by an Intendant and six Wardens, who shall be citizens of the United States, and shall have been residents of the said town for sixty days immediately preceding their election, who shall be elected on the second Monday in April, 1870, and every year thereafter on the second Monday in January, ten days' public notice thereof being previously given; and that all male inhabitants of the age of twenty-one years, citizens of the State, and who shall have resided in the said town for sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens. SEC. 77. That the election for Intendant and Wardens of the said

Election of same.

town shall be held in some convenient house, or some other convenient · public place in the said town, from nine o'clock in the morning until five o'clock in the afternoon, and when the polls shall be closed, the Managers shall forthwith count the votes and proclaim the election, and give notice, in writing, to the persons elected. The Intendant and Wardens shall appoint three Managers to hold the ensuing and any subsequent election. Whenever there shall not be an Intendant and Wardens, or Intendant and Warden, from any cause whatever, it shall be the duty of the Clerk of the Court of Abbeville County to order such election forthwith, and appoint three Managers for the same. The Managers in each case shall, before they open the polls for said election, take an oath fairly and impartially to conduct the same; and that the Intendant and Wardens, before entering upon the duties of their respective offices, shall take the oath prescribed by the Constitution of this State, and, also, the fol-Oath or omce. lowing oath, to wit: "As Intendant, or Warden, of the Town of Cokesbury, I will equally and impartially, to the best of my ability, exercise the trust reposed in me, and I will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected: So help me God." The said Intendant and War-

dens shall hold their offices from the time of their election until the second Monday in January ensuing, and until their successors shall be

elected and qualified.

State.

SEC. 78. That in case a vacancy should occur in the office of the Intendant, or any of the Wardens, by death, resignation, removal or otherwise, or in case of a tie in said election, an election to fill such vacancy how filled. shall be held by the appointment of the Intendant and Wardens, (or Warden) as the case may be, or the Clerk of the Court of Abbeville County, if there should be no Intendant or Wardens, ten days' public notice thereof being previously given; and in case of the sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their number to act in his stead during the time.

vested with all the jurisdiction and powers of Magistrates within the

limits of said town, and the Intendant shall, and may, as often as he may deem necessary, summon the Wardens to meet in Council, any two of whom, with the Intendant, may constitute a quorum to transact business, and they shall be known by the name of the Town Council of Cokesbury, and they and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all the ordinances; and the said Town Council shall have authority to appoint, from time to time, as they see fit, such, and so many, proper persons, to act as Marshals or Constables of the said town, as the said Town Council may deem necessary and expedient, for the preservation of the peace, good order and police thereof, powers duties. which persons so appointed shall, within the corporate limits of said town, have the powers, privileges and emoluments, and be subject to all the obligations, penalties and regulations provided by law, for the office of Constable, and shall be liable to be removed at the pleasure of said Council; and the said Town Council shall have power to establish, or to authorize the establishment of, the market house in said town. And the said Town Council shall have full power and authority, under their corporate seal, to make all such rules, by laws and ordinances, respecting the streets, roads, market house, and the business thereof, and the police system of the said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for preserving health, order and good government within the same; and the said Town Council may impose fines

for offences against their by-laws and ordinances, and appropriate the same to the public use of said town; and the said Council shall have the same power which Magistrates now have to compel the attendance of witnesses, and require them to give evidence upon the trial before them of any person for a violation of any of these by-laws or ordinances; but no fine above the sum of twenty dollars shall be collected by the Town Council, except by suit in the Court of Common Pleas: And provided,

also, That no fine shall exceed fifty dollars, and also that nothing herein Fines limited. contained shall authorize the said Council to make any by-laws or ordi-

SEC. 80. That the said Intendent and Wardens shall have full power to abate and remove nuisances in the said town, and it shall also be their remove duty to keep all roads, ways and streets within the corporate limits of the said town, open and in good repair, and for that purpose they are inves-

nances inconsistent with, or repugnant to, the laws of this State; and all the by-laws, rules and ordinances the said Council may make, shall, at all times, be subject to revisal or repeal by the General Assembly of this

A. D. 1871. Vacancies-

SEC. 79. That the Intendent and Wardens, duly elected and quali- Judicial powfied, shall, during their term of service, severally and respectively, be

Marshals-

and

ted with all the powers heretofore granted to Commissioners of Roads; and shall have full power to classify and arrange the inhabitants of said town, liable to street, road or other public duty therein, and to force the performance of such duty, under such penalties as are now, or shall hereafter be, prescribed by law: Provided, That the said Town Council may compound with persons liable to perform such duty, upon such terms, and on the payment of such sums, as may be established by laws or ordinances: And provided, also, That the individuals who compose the said Town Council shall be exempt from the performance of road and police duty, and the inhabitants of said town are hereby exempt from road and police duty without the corporate limits of said town.

SEC. 81. That the power to grant or refuse license for billiard tables, grantlicenses to keep tavern or retail spirituous liquors within the limits of the said corporation, be, and the same is hereby, vested in the Town Council of Cokesbury. And the said Council may grant licenses to retail spirituous liquors to such persons, and in such quantities, at such rates, and upon such terms and conditions, as the said Council may deem best and proper; and the said Intendant and Wardens shall have the full and only power to impose a tax on all shows or exhibitions, for gain or reward, within the limits; and all money paid for license for retailing spirituous liquors, keeping tavern and billiard tables, and the tax for all shows, for gain or reward, within said limits, shall be appropriated to the public use of said corporation.

Sidewalks.

Sec. 82. That the said Town Council of Cokesbury shall have full power and authority to require all persons owning a lot or lots in said town to make and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any of the public streets of said town, if, in the judgment of the Council, such sidewalks shall be necessary, the width thereof, and the manner of construction, to be designated and regulated by the Town Council; and, for default or refusal to make and keep in repair such sidewalks, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing: Provided, That such contracts for making or repairing be let to the lowest bidder.

May commit to jail.

SEC. 83. That the said Town Council of Cokesbury shall have power to arrest and commit to jail, for a space of time not exceeding twelve hours, and to fine, not exceeding twenty dollars, any person or persons who shall be guilty of disorderly conduct in said town to the annoyance of citizens thereof; and it shall be the duty of the Marshal of the town to make such arrest, and call to his assistance the posse comitatus, if necessary; and, upon failure to perform such duty, he shall be fined in a sum not more than twenty dollars for each and every offence.

Sec. 84 That the said Town Council of Cokesbury shall have power to grant or refuse licenses to parties within the limits of said town; and the parties to whom such licenses are granted shall be subject to such regulations as may, by ordinance, be established. They shall, also, have power to impose and collect an annual tax upon the assessed property of said town: Provided, No tax shall be imposed, in any one year, to exceed the rate of ten cents on each hundred dollars of such assessed property; and that the money so raised shall be applied to the use of said town. The said Town Council shall have power to enforce the payment of all taxes levied by the said Town Council, to the same extent,

and in the same manner as is now, or hereafter shall be, provided by law for the collection of the general State taxes.

Sales at auc-

A. D. 1871.

SEC. 85. That the said Town Council of Cokesbury shall have power to regulate sales at auction within the limits of said town, and to grant tion. licenses to auctioneers: Provided, Nothing herein contained shall extend to sales by Sheriff, Clerk of the Court, Judge of Probate, Coroner, Executor or Administrator, Assignee in Bankruptcy, or by any other person, out of the order, decree of any Court, Justice of the Peace, or Magistrate.

Sec. 86. That this Act shall be deemed a public Act, and shall continue of force for twenty years, and till the end of the session of the General Assembly of said State then next following; and all Acts of incorporations or amendments thereof, repugnant thereto, are hereby re-

pealed.

Town of Orangeburg.

SEC. 87. That an Act entitled "An Act to incorporate the town of Orangeburg," approved on the seventeenth day of December A. D. 1836, be, and the same is hereby, altered and amended as follows: That from and after the passage of this Act, all and every person or persons, who shall have resided within the corporate limits of the town of Orangeburg for sixty days are hereby declared to be members of the corpora-

tion hereby to be created.

SEC. 88. That the said persons shall, from the passing of this Act, become a body politic and corporate, and shall be known and called by the name of the "Town of Orangeburg," and its corporate limits shall extend one mile in every direction from the Court House as a centre, except on the side next to North Edisto River, which river shall constitute the

boundary in that direction.

SEC. 89. That the said town shall be governed by a Mayor and four Aldermen, who shall have resided in the State for one year, and within the limits of the corporation for sixty days immediately preceding their election. The said Mayor and Aldermen shall be elected on the second Tuesday in September, ten days' notice being previously given, and shall continue in office for two years, and until the election and qualification of their successors; and all male inhabitants of said town, who shall have attained the age of twenty-one years, and resided therein sixty days immediately preceding their election, shall be entitled to vote for said Mayor and Aldermen.

SEC. 90. That said election shall be held in some convenient public place in said town from eight o'clock in the morning until five o'clock in the evening; and when the polls shall be closed, the Managers shall forthwith count the votes and declare the election, giving notice in writing to the persons elected. The Mayor and Aldermen for the time being shall always appoint the Managers to conduct the election, who, before they open the poll for said election, shall take an oath fairly and impartially to conduct the same. And the Mayor and Aldermen, before entering upon the duties of their offices, shall, respectively, take the oath prescribed by the Constitution of this State, and also the following oath, to wit: "As Mayor (or Alderman) of the town of Orangeburg, I will Oath of office. equally and impartially, to the best of my ability, exercise the trust re-

Mayor and

Aldermen.

When and how elected.

Where election to be held

posed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purposes for which I have been elected: So help me God.

Vacancieshow filled.

Sec. 91. That in case a vacancy should occur in the office of Mayor or any of the Aldermen, by death, resignation or otherwise, an election to fill such vacancy shall be held by the appointment of the Mayor and Alderman, or Aldermen, as the case may be, ten days' previous notice being given; and in case of sickness or temporary absence of the Mayor, the Aldermen, forming a Council, shall be empowered to elect one of their number to act as Mayor during the time.

Judicial powers of officers.

Sec. 92. That the Mayor and Aldermen duly elected and qualified shall, during their term of service, severally and respectively, be vested with all powers of Magistrates in this State within the limits of said town. And the Mayor shall and may, as often as may be necessary, summon the Aldermen to meet in Council, any two of whom, with the Mayor, or any three Aldermen, may constitute a quorum to transact business, and they shall be known by the name of the Town Council of Orangeburg, and they and their successors hereafter to be elected may have a common seal, which shall be affixed to all their ordinances, may sue and be sued, plead and be impleaded, in any Court of law or equity in this State, and purchase, hold, possess and enjoy to them and their successors in perpetuity, or for any term of years, any estate, real, personal or mixed, and sell, alien and convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars. And the Mayor and Aldermen shall have full power to make and establish all such rules, bylaws and ordinances, respecting the roads, streets, market and police of said town, as shall appear to them necessary and requisite for the security, welfare and convenience of the said town, or for preserving health, peace, order and good government within the same; and the said Council may fix and impose fines and penalties for the violation thereof, and appropriate the same to the public uses of the said corporation: Provided, That no fine shall exceed fifty dollars for any one offence.

Grant licenses.

SEC. 93. That the Mayor and Aldermen of said town shall have full and only power to grant or refuse licenses to any person, firm, company or corporation engaged in, or intending to be engaged in any trade, business, or profession whatsoever, within the corporate limits of said town, upon such conditions and under such circumstances as to them shall seem proper and right: Provided, That in no instance shall the price of a license to keep a tavern, or to retail spirituous liquors, be fixed at a less sum than is established by the laws of this State; and all moneys paid for licenses, and for fines and forfeitures for retailing spirituous liquors, keeping taverns and billiard tables, within the said limits without licenses, shall be appropriated to the public uses of said town: Provided, That the Mayor and Aldermen, duly elected and qualified, shall not have power to grant any license to keep taverns, or retail spirituous liquors, to extend beyond the term for which they have been elected

Proviso.

Sec. 94. That it shall be the duty of the said Mayor and Aldermen to keep all roads, streets and ways within their corporate limits open and in good repair, and for that purpose they are invested with all the powers and duties of Surveyors of highways and Selectmen of towns. shall have power to compound with all persons liable to work the streets, ways and roads in said town, upon such terms as they shall by ordinance

Streets.roads and ways.

establish; the moneys so received to be applied to the public use of said town, and all persons refusing or failing to pay such commutation shall be liable to such fine, not exceeding twenty dollars, as the Town Council

may impose.

SEC. 95 They shall also have power to impose an annual tax not exceeding fifty cents on every hundred dollars of the assessed value of all real and personal estate lying within the corporate limits of said town, (the real and personal estate of churches and school associations ex-The said Council shall have the power to regulate the price of license upon all public shows and exhibitions in said town, to erect a powder magazine, and compel any person holding more than twenty-five pounds of powder to store the same therein, and to make regulations for gazine. rates of storage thereof, and for keeping and delivering the same. said Council shall have power to enforce the payment of all taxes levied under the authority of this Act, against the property and persons of defaulters, to the same extent and in the same manner as is provided by law for the collection of the general State tax, except that executions to enforce the payment of the town taxes shall be issued under the seal of the corporation, and directed to the Town Marshal, or other person espe- taxes. cially appointed by the Town Council, to collect the same; and all property upon which a tax shall be levied is hereby declared and made liable for the payment thereof in preference to all other deots against the said property, except debts due the State, which shall first be paid.

SEC. 96. That the said Town Council shall have power and authority to require all persons owning a lot or lots, in said town, to make and keep in good repair sidewalks in front of said lot or lots, whenever the same shall front or adjoin any public street of said town, if, in the judgment of the Council, such sidewalk shall be necessary, the width thereof, and the manner of their construction, to be designated and regulated by the said Council, and for default or refusal, after reasonable notice, to make and keep in repair such sidewalks, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing. And the said Town Council are hereby em-· powered to sue for and recover the same by action of debt in any Court of competent jurisdiction: Provided, That such contract for making or re-

pairing be let to the lowest bidder.

SEC. 97. That the said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within the said Town as they may deem necessary, by sale of the freehold therein, either at private or public sale, as they may adjudge best for the interest of the said town; and they shall have power to lay out, adopt, open and keep in repair all such new streets, roads and ways as they may, from time to time, deem necessary for the improvement and convenience of said town: Provided, That no new street, road or way shall be opened without first having obtained the consent of the land owner or owners through whose premises any such new street, road or way may pass.

SEC. 98. The said Town Council shall have power, and are hereby authorized, to elect one or more Marshals, (in addition to the Sheriff of the shals, County of Orangeburg, who shall also be a Marshal of the town,) to fix their salaries and prescribe their duties, who shall be sworn in and invested with all the powers, and subjected to all the duties and liabilities, latter.

A. D. 1871.

Powder ma-

Collection of

Sidewalks.

Close up or open streets.

http://www.hathitrust.org/access

A. D. 1871.

that Constables now have, or are subject to by law, in addition to the duties and liabilities specially conferred and imposed on them by the Town Council: Provided, That their jurisdiction shall be confined within the limits of said town.

SEC. 99. That the Town Council shall have power to establish a guard

Guard house.

Who may be

house, and to prescribe, by ordinance, suitable rules and regulations for keeping and governing the same; and, until such guard house shall be established, they shall be authorized to use a room in the common jail of the County of Orangeburg, for the confinement of all who may be subcommitted to ject to be committed for violation of any ordinance of the town passed in conformity to the provisions of this Act; and the said Town Council may, by ordinance, or the said Mayor and Aldermen, in person, any one or more of them, authorize and require any Marshal of the town, or any Constable specially appointed for that purpose, to arrest and commit to the said guard house, or jail of Orangeburg County, as the case may be, for a term not exceeding twenty-four hours, any person or persons who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or in any conduct grossly indecent or dangerous to the citizens of said town, or any of them; and it shall be the duty of the Town Marshal to arrest and commit all such offenders, when required so to do, who shall have power to call to their assistance the posse comitatus, if need be, to aid in making such arrests; and upon the failure of said Marshals to perform such duty as is required, they shall, severally, be subject to such fines and penalties as the Town Council may establish. And all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said costs and expenses shall be collected in the same manner as is provided by this Act for the collection of fines imposed for the violation of ordinances: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose, or, in lieu of failure to pay the fine imposed, to be imprisoned for a term not more than twenty days for the offence for which he may have been committed.

Shows and exhibitions.

SEC. 100. The said Town Council shall have power to collect the taxes from all the persons representing, publicly, within the corporate limits, for gain or reward, any plays or shows of what nature or kind whatever, to be used for the purposes of said town.

Abate sances.

Sec. 101. The said Town Council shall have full power and authority nui. to abate all nuisances within the corporate limits, and also to appoint a Board of Health for said town, and to pass such ordinances as may be necessary to define the powers and duties, and to impose fines and penalties upon the members of said Board, for neglect of duty or refusal to serve: Provided, That no fine hereby authorized to be imposed shall exceed the sum of twenty dollars.

Fire department.

SEC. 102. The said Town Council shall have full power and authority over the Fire Department of the Town of Orangeburg—define the duties,

regulations and government of same.

SEC. 103. The Mayor and Aldermen elect shall, during their term of office, be exempt from street duty. Each Town Council shall, within over one month after the expiration of their term of office, make out and rebooks on expiration of turn to their successors a full account of their receipts and expenditures during their term; and shall pay over all moneys in their possession be-

Neglect of

duty-penalty.

longing to the corporation, and deliver up all books, records, and other papers incident to their office, to their successors; and on failure so to do, they shall be liable to be fined in a sum not exceeding five hundred dollars, to be collected by any proper action by the Town Council.

SEC. 104. For any wilful violation or neglect of duty, malpractice, abuse or oppression, the said Mayor and Aldermen, jointly and severally, shall be liable to indictment in the Court of Sessions, and, upon conviction, to punishment as prescribed in the preceding Section, besides being

liable for damages to any person or persons injured.

SEC. 105. That all ordinances heretofore passed by the Town Council of Orangeburg, in conformity with the authority granted by existing laws, shall be, and they are hereby, declared legal and valid.

SEC. 106. All Acts and parts of Acts, heretofore passed in relation to the incorporation of the town of Orangeburg, be, and the same are hereby,

repealed.

Sec. 107. This Act shall be deemed a public Act, and continue in force for the term of fifteen years, and until the end of the session of the Legislature then next ensuing.

Town of Branchville.

SEC. 108. That from and after the passage of this Act, all citizens of this State, having resided twelve months within the State, and sixty days in the Town of Branchville, shall be deemed, and are hereby declared to be, a body politic and corporate, and the said town shall be called and known by the name of Branchville, and its corporate limits shall extend one mile in each direction from the Hotel between the two Railroads in town. said town.

Branchville.

Limits

SEC. 109. That the said town shall be governed by an Intendant and four Wardens, who shall be citizens of the United States, and who shall and Wardens. have resided in this State twelve months, and shall have been residents of the said town sixty days immediately preceding their election, and who shall be elected on the first Monday in February of each year, five days' public notice thereof being previously given, and that all male inhabitants of the age of twenty-one years, citizens of the State, and who shall have resided within the State twelve months, and in the said town sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens, paupers and persons under disabilities for crime excepted.

Intend an t

SEC. 110. The said election to be held at some convenient public place in said town, from eight o'clock A. M., until five o'clock P. M., and when when, where and how to be the polls shall be closed, the Managers shall forthwith count the votes, held. and declare the election, and give notice thereof, in writing, to the Intendant therein being, who shall, within two days thereafter, give notice, or cause the same to be given, to the persons duly elected. The Intendant and Wardens, before entering upon the duties of their offices, shall respectively take the oath prescribed by the Constitution of the State, and, also, the following oath, to wit: "As Intendant (or Warden) of the Oath of office. Town of Branchville, I will equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purposes for which I have been elected: So help me God." And, if any per-76

Electi o n -

Proviso.

son, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay to the Council the sum of ten dollars, for the use of the said town: Provided, That no person who has attained the age of sixty years shall be compelled to serve in either of said offices, nor shall any person be compelled to serve, either as Intendant or Warden, more than one year in any term of three years. The Intendant and Wardens, for the time being, shall always appoint one or more Boards of Managers, three Managers for each Board, to conduct the election, who, before they open the polls, shall take an oath fairly and impartially to conduct the same.

Vacancieshow filled.

SEC. 111. That in case a vacancy shall occur in the office of Intendant, or of any of the Wardens, by death, resignation, removal or otherwise, an election to fill such vacancy shall be held by order of the Intendant and Wardens, or a majority of the same, five days' public notice being previously given, and, in case of sickness or temporary absence of the Intendant, the Wardens forming the Council shall be empowered to elect one of the number to act as Intendant during the time.

Judicial cers.

Sec. 112. That the Intendant and Wardens, duly elected and qualified, powers of offi- shall, during their term of service, severally and respectively, be vested with all the powers heretofore granted to Magistrates in this State within the limits of the said town, except for the trial of small and mean causes; and the Intendant shall or may, as often as is necessary, summon the Wardens to meet in Council, any two of whom, with the Intendant, or any three of the Wardens, may constitute a quorum to transact business; and they shall be known as the Town Council of Branchville, and they and their successors in office, hereafter to be elected, may have a common seal, which shall be affixed to all their ordinances, may sue and be sued, plead and be impleaded, in any Court of justice in this State, and purchase, hold, possess and enjoy, to them and their successors, in perpetuity, or for any term of years, any estate, real, personal or mixed, and sell, alien or convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars; and the said Town Council shall have authority to appoint, from time to time, as they may see fit, such and so many proper persons to act as Marshals or Constables of said constable s and so many proper persons to their duties, town as the said Council may deem necessary and expedient for the preservation of the peace, good order and police thereof, which persons so appointed shall, within the corporate limits of said town, have the power and privileges, and be subject to all the obligations, penalties and regulations provided by the law for the office of Constable, and shall be liable to be removed at the pleasure of said Council; and the said Town Council shall have power to establish, or authorize the establishment of, a market house in said town; and the Town Council, or the said Intendant and Wardens, in person, any one or more of them, may authorize and require any Marshal of the town, or Constable specially appointed for that purpose, to arrest and commit to the guard house, for a term not exceeding twenty-four hours, any person or persons who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or any conduct grossly indecent or dangerous to the citizens of said town, or any of them; and it shall be the duty of the Town Marshals or Constables to arrest and commit all such offenders, when required so to do, and who shall have power to call to their assistance the posse comitatus, if

Marshalsand

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need be, to aid in making such arrests; and upon the failure of said officers to perform such duty as required, they shall, severally, be subject to such fines and penalties as the Town Council may impose upon them; and all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said costs and expenses shall be collected in the same manner as is provided for the collection of fines imposed for the violation of ordinances, rules and regulations: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose for the offence for which he, she or they may have been committed. And the said Town Council may have full power and authority, under their corporate seal, to make all such rules, regulations, by-laws and ordinances respecting the streets, roads, and the business thereof, as well as the police system of the said town, as shall appear to them necessary and proper for the security, welfare and convenience, and for preserving health, order and good government within said town; and the said Town Council may impose fines for offences against their bylaws, rules, regulations and ordinances, and appropriate the same for the public use of said town; and the said Town Council shall have the same power which has been heretofore granted to Magistrates in this State to compel the attendance of witnesses, and require them to give evidence, upon the trial before them of any person or persons for violation of any of their ordinances, by-laws, rules or regulations; but no fine above the sum of twenty-five dollars shall be collected by the Town Council, except by suit in the proper Courts of justice in this State; and that no fine shall exceed the amount of fifty (50) dollars; and, also, nothing same are colherein contained shall authorize the said Council to make any ordinance lected.

or by-law inconsistent or repugnant to the laws of this State. SEC. 113. That the said Intendant or Wardens, or a majority of them, shall have power to abate and remove all nuisances in said town; and it shall be their duty to keep all roads, ways, bridges and streets, within the corporate limits of the said town, open and in good repair, and, for that purpose, they are vested with all the powers of County Commissioners, or Commissioners of Roads, for and within the corporate limits of said town, and they may lay out new streets, close up, widen or otherwise alter these now in use, and shall have full power to classify and arrange the inhabitants or citizens of said town, liable to street, road or other public duties therein, and to force the performance of such duty, under such ble to workpenalties as are now, or shall hereafter be prescribed by law, and they ted. shall have power to compound with all persons liable to work the streets, ways and roads in said town, upon such terms as their ordinances or bylaws may establish, or their rules and regulations require, the moneys so received to be applied to the public use of said town, and all persons refusing to labor, or failing to pay such commutation, shall be liable to such fine, not exceeding twenty dollars for any one year, as the said Town Council may impose. And they shall have power to enforce the payment of such fines in the same manner as is now or may be hereafter provided for the collection of County taxes; and the said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within the said town as they may deem necessary, and they may keep in repair all such new streets, roads and ways as they may, from time to time, deem necessary for the improvement and convenience of said town: Provided, That no street, road or way shall be

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opened, without first having obtained the consent of the land owner, or owners thereof, through whose premises any such new street, road or way may pass.

Sidewalks.

SEC. 114. The said Town Council shall have power and authority to require all persons owning a lot or lots in said town to close in, and to make and keep in good repair, sidewalks in front of said lot or lots, whenever the same shall front or adjoin any public street of said town, if, in the judgment of said Council, such sidewalks shall be necessary; the width thereof, and the manner of construction, shall be designated and regulated by said Town Council; and for default or refusal, after reasonable notice, to make and keep in good repair such sidewalks, and to close in such lot or lots, the Town Council may cause the same to be made or put in repair, and require the owner to pay the price of making or repairing; and the said Town Council are hereby empowered to sue for and recover the same, by action of debt, in any Court of competent jurisdiction: Provided. That such contract for making or repairing is let to the lowest bidder.

SEC. 115. The Intendent and Wardens of said town, or a majority of

Grant licenses.

them, shall have full power to grant or refuse licenses to keep taverns or retail spirituous liquors in the corporate limits of said town, upon such conditions and under such circumstances as to them shall seem proper and right: Provided, That in no instance shall the price of a license to keep a tavern, or to retail spirituous liquors, be less than the amount established by the State, and all moneys paid for licenses and for fines and forfeitures, shall be appropriated for the public use of said town: Provided, That the Intendant and Wardens duly elected shall not have power to grant any license to keep taverns or retail spirituous liquors to They shall extend beyond the term for which they have been elected. Sales at auc. have power to regulate sales at auction within the corporate limits of the town, and to grant licenses to auctioneers, itinerant traders, to keepers of hotels, livery stables, billiard tables, ten pin alleys, or other kinds of games of hazard, skill, or chance. They shall have the full and only power to impose a tax on all shows and exhibitions for gain or reward within the corporate limits of said town.

tion, &c.

SEC. 116. The Intendant and Wardens elect, together with Clerk and Treasurer, shall, during their term of office, be exempt from street and police duty. Each Town Council shall, within one month after the exover piration of their term of office, make out and return to their successors in books, &c., on office, a full account of their receipts and expenditures during their term, expiration of term of ser- which account shall be published in one or more public places of said town, and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and other papers incident to their office, to their successors, and on failure to do so, they shall be liable to be fined in a sum not exceeding five hundred dollars, to be collected by any proper action of the Town Council.

SEC. 117. That all ordinances heretofore passed by the Town Council

of Branchville, in conformity with the authority granted by existing laws, shall be, and they are hereby, declared legal and valid.

SEC. 118. All Acts and parts of Acts heretofore passed in relation to the incorporation of the Town of Branchville be, and they are hereby, repealed.

Turn

OF SOUTH CAROLINA.

Town of Reidville.

A. D. 1871. Reidville.

J. F. Smith

SEC. 119. That the charter of the town of Reidville, in the County of Spartanburg, be, and the same is hereby, renewed and extended for the term of fourteen years, with the same power that is conferred by this Act on the town of Grahams.

SEC. 120. This Act shall be deemed a public Act, and continue in force for the term of fifteen years, and until the end of the session of the Legis-

lature thereafter.

Approved March 9, 1871.

AN ACT TO CONFER THE RIGHTS OF LEGITIMACY ON CERTAIN CHIL-No. 383. DREN.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the children begotten of the body of Anna Smith, late of the County of Oconee, called by the and others names of Jacob Ferrel Smith, Sarah Malissa Smith, Artamissa J. Smith and Joseph Henry Smith, be, and they are hereby, invested with all the rights and privileges of legitimate children, in the same manner, and to the same extent, as if they had been born in lawful wedlock.

Approved March 9, 1871.

AN ACT TO INCORPORATE THE LEBANON PRESBYTERIAN CHURCH, OF No. 384. FAIRFIELD COUNTY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Lebanon Presbyterian Church, of Fairfield, in this State, is hereby incorporated, with all the rights and privileges awarded to religious denominations in this State.

Sec. 2. That the said the Lebanon Bresbyterian Church, of Fairfield, may acquire lands within this State for religious and educational pur-powers. poses, and regulate and govern the same as they may deem proper, in accordance with their laws and discipline, such laws not being inconsist-

ent with the laws of this State.

SEC. 3. This Act shall be deemed a public Act, and shall continue in force for the term of twenty five years.

Approved March 9, 1871.

AN ACT TO INCORPORATE THE WINYAH GUARDS, OF GEORGETOWN, No. 385. SOUTH CAROLINA.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly,

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A D. 1871.

and by the authority of the same, That J. Harvey Jones, George Pawley and Brass Richardson, under the name and style of the Winyah Guards, they, and their successors and associates in office, be, and they are hereby, incorporated, and made and declared a body politic and corporate, in deed and in law, and, as such body politic, shall have the power to use and keep a common seal, and the same at will to alter, to make all Corporate necessary by-laws not repugnant to the laws of the land, and to have succession of officers and members, conformable to such by-laws, to sue and be sued, plead and be impleaded, in any Court of competent jurisdiction in this State, and to have, use and enjoy all other rights, and be subject to all other liabilities incident to bodies corporate.

> SEC. 2. This Act shall be deemed and taken to be a public Act, and shall continue in force for the space of fifteen years from and after its

passage.

Approved March 9, 1871.

No. 386. AN ACT TO PERMIT BURNS D. MYERS TO ADOPT AND MAKE HIS LAWFUL HEIRS, H. MARGARET GRIMES AND W. BURNS GRIMES, AND TO CHANGE THE NAME OF THE SAID H. MARGARET GRIMES TO H. MARGARET MYERS, AND THE NAME OF W. BURNS GRIMES TO W. Burns Myers

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Burns D. Myers is hereby authorized and empowered to adopt and make his lawful heirs, H. Margaret Grimes and W. Burns Grimes, and that the name of the said H. Margaret Grimes shall be changed to H. Margaret Myers, and the name of the said W. Burns Grimes shall be changed to W. Burns Myers.

> SEC. 2. That should the said Burns D. Myers die intestate, the said H. Margaret Myers and the said W. Burns Myers shall inherit, in common with the other lawful heirs of the said Burns D. Myers, his estate, both personal and real.

Approved March 9, 1871.

AN ACT DECLARING A TRACT OF ONE HUNDRED ACRES OF LAND, No. 387. IN THE COUNTY OF FAIRFIELD, AS ESCHEATED TO THE STATE, AND TO VEST THE TITLE TO THE SAME IN THE TRUSTEES OF RIDGEWAY ACADEMY.

Freamble. Whereas, one Mrs. Murdoc, widow, died a number of years since, leaving as her estate one hundred acres of land in the County of Fairfield, bounded by lands of William Dunlap, Samuel McQuarters and others; and, whereas, she left no heirs or representatives; therefore,

Section 1. Be it enacted by the Senate and House of Representatives Declared es- of the State of South Carolina, now met and sitting in General Assembly, and by the suthority of the same, That the said tract of one huncheated.

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dred acres of land be, and the same is hereby, declared to have escheated to the State.

A. D. 1871.

SEC. 2. That the title of the State to said one hundred acres of land be, and the same is hereby, vested in S. M. Smart, Moses James and Wyatt Boulware, and their successors in office, as Trustees of the Ridgeway Academy, in the said County of Fairfield.

Whom title

Sec. 3. That they are hereby authorized to sell the same, and apply Application of proceeds. the money for the purpose of building a school at or near the above mentioned place.

Application

Approved March 9, 1871.

AN ACT TO EXTEND THE LIMITS OF THE TOWN OF CAMDEN.

No. 388.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the limits of the town of Camden be, and the same are hereby, extended as follows, to wit: The western boundary shall commence at the point at which Wylie street intersects with Pine Tree Creek, and shall extend northward along the line of said Wylie street three-fourths of a mile beyond the present terminus of the said street, and from this point the northern boundary shall extend, in an eastern direction, until it intersects Horse Branch, and thence, by course of said stream, to the point where it empties into Little Pine Tree Creek, and by the course of said Creek, in a southern direction, to the confluence of said Creek into Pine Tree Creek, and thence, by the course of the last named Creek, to the point where Wylie street now intersects the said Creek.

New limits.

Sec. 2. That the Intendant and Wardens of the town of Camden are hereby required to proceed, immediately upon the passage of this Act, to designate, by proper marks and monuments, the boundaries hereinbefore authorized.

Sec. 3. That all Acts or parts of Acts, inconsistent with the provisions of this Act, be, and the same are hereby, repealed.

Approved March 9, 1871.

AN ACT TO REGULATE THE DISPOSITION OF FINES AND PENALTIES IMPOSED AND COLLECTED IN CRIMINAL CAUSES BY THE CIRCUIT COURT OF GENERAL SESSIONS AND TRIAL JUSTICES.

No. 389.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all fines and penalties imposed and collected by the Circuit Court of General Sessions in criminal court to be causes, shall be forthwith turned over by the Clerk of said Court to the County Treas-County Treasurer of the County wherein the same are imposed; and all urer. fines and penalties imposed and collected by Trial Justices, in criminal causes, shall be forthwith turned over by them to the County Treasurers of their respective Counties, for County purposes: Provided, That when,

Fines and

by law, any person or persons entitled, as informer or informers, to any portion of the fine or penalty imposed and collected, the same shall be immediately paid over to him or them.

When ac-counts of offi-cers of Courts may be paid.

SEC. 2. No account of the Circuit Solicitor, the Clerk of the Circuit Court of General Sessions, the County Sheriff, or Trial Justices, for fees, in any criminal cause, heard or prosecuted in the Circuit Court, or before a Trial Justice, shall be paid, unless they severally shall declare, on oath, that the costs in the said cause have not been recovered of the defendant, and that he, the defendant, was unable to pay the same; and, further, that all fines and penalties heretofore collected by them have been faithfully and fully paid over to the County Treasurer of the County.

Clerk of Court or Trial Justice fail-

SEC. 3. If any Clerk of the Circuit Court of General Sessions. County Sheriff, or Trial Justice, shall neglect or refuse to immediately pay over, ing to pay as required by the first Section of this Act, any and all fines and penalover fines— ties collected by them in any criminal cause or proceeding, he shall, on conviction thereof, be subject to a fine of not less than one hundred, nor more than one thousand dollars, and imprisonment not less than three, nor more than six months, and shall be dismissed from office, and disqualified from holding any office of trust and profit under the State of South Carolina.

Approved March 9, 1871.

No. 390. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE AGENCIES OF INSURANCE COMPANIES, NOT INCORPORATED IN THE STATE OF SOUTH CAROLINA."

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section 6 of an Act entitled "An Act to regulate the agencies of insurance companies, not incorporated in the State of South Carolina," be amended so as to read as follows: "That for every license issued by the Comptroller-General under this Act, the shall pay \$5 Company or Agent taking out such license shall pay, or cause to be into the State paid, into the Treasury of the State the sum of five dollars, the same to be appropriated for the use and benefit of the State."

Treasury.

Approved March 9, 1871.

No. 391. AN ACT TO INCORPORATE HEALING SPRINGS BAPTIST CHURCH, IN BARNWELL COUNTY, SOUTH CAROLINA.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Name of and by the authority of the same, That the members of the said Society corporation. be, and they are hereby, incorporated, and are hereby declared to be a body corporate, by the name and style of the Healing Springs Baptist Church, and by that name and style shall have succession of officers and members, and shall have a common seal.

Sec. 2. That the said corporation shall have power to purchase, re-

ceive and hold any real or personal estate not exceeding in value the sum of twenty thousand dollars, and to sell, convey and dispose of the same; and, by its corporate name, to sue and be sued in any Court of rights. this State, and to make such rules and by-laws, not repugnant to law, as it may consider necessary and expedient.

A. D. 1871. Corporate

SEC. 3. That this Act shall be deemed and taken to be a public Act,

and shall continue in force for the term of twenty-five years.

Approved March 9, 1871.

AN ACT TO INCORPORATE THE CAPITAL BUILDING AND LOAN ASSO-CIATION, OF COLUMBIA.

No. 392.

Corporators.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That John Agnew, M. J. Calnan, James A. Dunbar, W. B. Nash, W. Simons, S. B. Thompson, John McCord, R. Tomlinson, C. C. Puffer, W. F. Hague, Timothy Hurley, together with other persons who now are, or hereafter may be, associated with them, be, and they are hereby, declared a body politic and corporate, for the purpose of making loans of money, secured by mortgage on real estate or personal property, or by conveyance of the same, to their members and stockholders, by the name and style of the "Capital Building and Loan Association, of Columbia," the capital stock of which Capital stock. shall consist of one thousand shares, to be paid in by successive monthly installments of one dollar on each share, so long as the corporation shall continue, the said shares to be held, transferred, assigned and pledged, and the holders thereof to be subject to such fines and forfeitures for defaults in their payments, according to such regulations as may be prescribed by the by-laws of said corporation.

SEC. 2. That the said corporation shall have power and authority to make any such rules and by-laws for its government as are not repugnant to the Constitution and laws of the land; shall have such number and succession of members and officers as shall be ordained and chosen according to their said rules and by-laws, made or to be made by them; shall have and keep a common seal, and may alter the same at will; may sue and be sued, plead and be impleaded, in any Court of Law or Equity in this State; and shall have and enjoy all and every right and privilege incident and belonging to corporate bodies, according to the laws of the land.

Corporate

SEC. 3. That the said corporation shall have power to take, purchase, and hold real estate, and to sell and transfer the same from time to time to its members, on such terms, and under such conditions, and subject to such regulations as may be prescribed by the rules and by-laws of said corporation: Provided, That the real estate held by said corporation shall not at any time exceed the value of two hundred thousand dollars.

May hold or dispose of property.

SEC. 4. That the funds of said corporation shall be loaned and advanced to the members and stockholders, upon the security of real and personal estate; and used in the purchase of real estate for the benefit of its members and stockholders, on such terms, and under such conditions, and subject to such regulations as may, from time to time, be prescribed

Capital.

Funds may be loaned.

by the rules and by-laws of said corporation; and it shall be lawful for the said corporation to hold such lands, tenements, hereditaments and personal property as shall be mortgaged or conveyed to them, in good faith, by way of security, upon its loans and advances; and may sell, alien or otherwise dispose of the same, to its members and stockholders only, as they, from time to time, may deem expedient.

Disposition of funds when they remain unproductive

Sec. 5. That whenever it shall occur that the funds of the said corporation shall remain unproductive and uncalled for, for the space of two months, the corporation shall have power to loan whatever amount may be thus on hand, to others than stockholders and members, for such time and at such rates of interest as may be established by virtue of such rules and by-laws as may be made by said corporation.

Division of funds.

SEC. 6. That whenever the funds of said corporation shall have accumulated to such an amount that, upon a fair and just division thereof, each stockholder and member shall have received, or be entitled to receive, the sum of two hundred dollars, or property of that value, for each and every share of stock by him or her so held, and such distribution and division of the funds shall have been so made, then this corporation shall cease and determine. This Act shall be deemed a public Act, and that the same may be given in evidence without specially pleading the same: Provided, That said corporation shall have all the rights, and be subject to all the liabilities provided in the Act to regulate the formation of corporations, passed December 10, 1870.

Approved March 9, 1871.

No. 393. AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO AL-TER AND AMEND THE CHARTER OF THE CITY OF GREENVILLE, AND FOR OTHER PURPOSES," APPROVED MARCH 23, 1869.

Who to work on streets.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passage of this Act, it shall be lawful for the Mayor and Aldermen of the city of Greenville to require each male inhabitant of said city, between the ages of eighteen and fifty, to labor upon the public streets of said city: Provided, nevertheless, That no person shall be required to perform more than four days' labor on said streets in any one year.

Amount of commutation for public la-

SEC. 2. That it shall be lawful for said Mayor and Aldermen to fix some certain sum, not to exceed the sum of two dollars per annum, which may be paid in money, within a certain time, to be limited by the said Mayor and Aldermen, by any person liable to labor on said streets, in commutation of such labor, and to enforce the payment of the same in the manner now provided by law for the collection of taxes.

City officers may commit to jail-when and whom.

Sec. 3. That the said Mayor and Aldermen, or any three of them, shall have power to commit to jail, for a space of time not exceeding twenty days, and to fine not exceeding fifty dollars, any person or persons who shall be guilty of riotous or disorderly conduct in said city; and it shall be the duty of the Marshals of the said city to arrest all such persons, and to bring them before the said Mayor and Aldermen, or any

three of them, to be dealt with according to the ordinances of said city. Sec. 4. The said Mayor and Aldermen of the said city shall have new streets. power to open new streets, and to widen, straighten or alter the streets now in use, upon payment of damages to the owners of property affected nit indem-thereby; the damages to be assessed by five freeholders of said city, two of property affected. to be selected by the City Council and two by the owner or owners of the property, and the fifth by the persons so selected.

A. D. 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REVISE, SIM-PLIFY AND ABRIDGE THE RULES, PRACTICE, PLEADINGS AND FORMS' of the Courts in this State."

No. 394.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the first subdivision of Section 25 of the Act entitled "An Act to revise, simplify and abridge the Rules, Practice, Pleadings and Forms of the Courts in this State, approved March 1, A. D. 1870, be amended so as to read as follows:

The Court of General Sessions at Greenville, for the County of Greenwille, on the first Monday of January, May and September; and the in Greenville. Court of Common Pleas at Greenville, for the County of Greenville, on the first Wednesday after the first Monday in January, May and Septem-

ber.

Sec. 2. The County of Marion is hereby transferred from the Fourth Mario transferred. Circuit to the Third Circuit.

Marion

SEC. 3. Section 20 of an Act entitled "An Act to revise, simplify and abridge the Rules, Practice, Pleadings and Forms of the Courts in this State," is hereby amended by the addition of the following subdivision: The Court of General Sessions at Marion, for the County of Marion, on the Third Monday after the fourth Monday of January, May and October; and the Court of Common Pleas at Marion, for the County of Marion, on the first Wednesday after the third Monday after the fourth Monday of January, May and October.

SEC. 4. Section 20 of the Act mentioned in the third Section of this Act is hereby amended by striking out the third subdivision thereof, and the fourth subdivision shall hereafter be the third subdivision, and the

fifth shall hereafter be the fourth.

Approved March 9, 1871.

Sec. 5. That all processes, writs and recognizances of every kind, whether respecting juries, witnesses, bail, or otherwise, which relate to the Terms of the Courts of Common Pleas and General Sessions, as heretofore established and made returnable to said Courts, as heretofore established, shall be returnable and applicable to the Courts, as established by this Act.

Approved March 9, 1871.

A. D. 1871. No. 395. AN ACT TO EMPOWER, AUTHORIZE AND REQUIRE THE COUNTY COM-MISSIONERS OF ORANGEBURG COUNTY TO BUILD A BRIDGE ACROSS THE NORTH FORK OF EDISTO RIVER, AND ESTABLISHING A ROAD THEREFROM TO THE TOWN OF BRANCHVILLE.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners of Orangeburg County be, and are hereby, empowered and required to build (as early as practicable) a bridge across the North Fork of Edisto River, and to establish a road therefrom to the town of Branchville, in said County; and, if necessary for said purpose, they may and shall have the right to levy a special tax for the purpose aforesaid.

Approved March 9, 1871.

AN ACT TO INCORPORATE THE PLEASANT GROVE BAPTIST CHURCH, IN DARLINGTON COUNTY, SOUTH CAROLINA.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the members of the said society be, and are hereby, incorporated, and are hereby declared to be a body corporate, by the name and style of the Pleasant Grove Baptist Church, and by that name and style shall have succession of officers and members, and shall have a common seal.

Corporate powers and and privileges.

Sec. 2. That the said corporation shall have power to purchase, receive and hold any real or personal estate not exceeding in value the sum of twenty thousand dollars, and to sell, convey and dispose of the same, and, by its corporate name, may sue and be sued in any Court of this State, and to make such rules and by-laws, not repugnant to law, as it may consider necessary and expedient.

SEC 3. That this Act shall shall be deemed and taken to be a public Act, and shall continue in force for the term of twenty-five years.

Approved March 9, 1871.

No. 397. AN ACT TO AMEND AN ACT ENTITLED "AN ACT FOR THE BETTER PROTECTION OF MIGRATORY FISH."

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act for the better protection of migratory fish" be amended as follows: That at no time during the year shall there be any permanent obstructions, of any kind or nature whatever, in any of the inland creeks, streams or waters of the State to the free migration of fish; and on and after the passage of this Act there shall be a close time in all the creeks, streams and inland waters of this State from the setting of the sun each Saturday until the rising of the sun on each Monday, during which time

Obstructions in rivers.

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all seines, nets, wires, or any plan or device for the stoppage or catching of fish which obstruct more than two-thirds of any stream, other than a dam for manufacturing purposes, shall be removed from said creeks, streams or waters, and the owner, in whole or in part, of any such obstruction, plan or device shall be liable to a fine of twenty dollars for each and every offence, one-half to go to the informer, and the other half to the use of the County in which such obstruction is found.

SEC. 2. That all manufacturing companies or persons who have erected, Fishways to or may erect, artificial dams across the inland creeks, streams or waters ted. of this State, which prevent the migratory fish from ascending the same, shall, immediately after the passage of this Act, construct proper fishways over the same; and should such manufacturing companies or persons refuse or fail so to do, they shall be liable to a fine of five thousand dollars, recoverable by the County in which such dam has been or

may be erected, in a Court of competent jurisdiction.

Sec. 3. That should any person or persons cause to flow into, or be cast into, any of the creeks, streams or inland waters of this State any impurities that are poisonous to fish or destructive to their spawn, such person or persons shall, upon conviction thereof, be punishable with a fine of not less than five hundred dollars, or imprisonment of not less than six months in the County jail; the fine to go one-half to the informer, and the other half to the County: Provided, That the duties assigned by the Joint Resolution of January 19, 1870, to the Board of Fish Commissioners, be, and they are hereby, assigned and transferred to Commissioner of the Bureau of Agricultural Statistics.

SEC 4. This Act to take effect on and after its passage.

Approved March 9, 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ORGANIZE THE SUPREME COURT."

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section 1 of an Act entitled "An Act to organize the Supreme Court," ratified on the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight, be, and the same is hereby, amended so as to read "the third Tuesday of April," in the place of "the first Tuesday" of the same month.

Approved March 9, 1871.

AN ACT TO AMEND THE CHARTER OF THE GERMAN EVANGELICAL LUTHERAN CHURCH, OF CHARLESTON.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the charter of the German Evangelical authority of the same, That the charter of the German Evangelical May hold Lutheran Church, of Charleston, granted in 1841, and renewed by an property amounting to Act of the General Assembly, ratified the nineteenth day of December, \$150,000.

A. D. 1871.

Impurities.

No. 398.

No. 399.

A. D. eighteen hundred and fifty-five, is hereby extended and continued in force, and so amended as to authorize said corporation to hold property, real and personal, to the amount of one hundred and fifty thousand dollars.

Approved March 9, 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO DEFINE THE JU-No. 400. RISDICTION AND DUTIES OF THE COUNTY COMMISSIONERS."

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to define the jurisdiction and duties of the County Commissioners," passed the twenty-sixth day of September, A. D 1868, be amended as follows: County Com-At the end of Section 10, Paragraph 1, add "and the County Commishow much money they may draw, sioners shall not, in anticipation of the tax levied upon the County, draw upon the County Treasurer for more than three-fourths of the whole amount of said tax in any one year; nor shall any order be drawn upon the County Treasurer until after the monthly return of the Treasurer shall have been made to the County Commissioners of the amount of funds collected, nor unless he has the funds in the Treasury to pay the same. And the County Commissioners shall inform the County Treasurer of the orders drawn, in whose favor, the amount, and the order in which they are And should the County Commissioners, or any one of them, purchase, directly or indirectly, any order drawn upon the County Treasurer, for less than its face value, they shall be deemed guilty of a misdemeanor

Section 1. Be it enacted by the Senate and House of Representatives

Work to be given out by

contract.

missioner s

may dra and when.

diction." SEC. 2. At the end of Paragraph 4, Section 10, add "and all work given out by the County Commissioners, when the amount shall exceed the sum of one hundred dollars, shall be done by contract; and the Commissioners are hereby required to advertise the same, at least in one of the papers of the County, and also post the same in three conspicuous places in the County for thirty days, inviting proposals; said proposals shall, in all cases, be accompanied by two or more sufficient sureties; and the County Commissioners shall have the right to reject any or all bids, if, in their judgment, the interests of the County so require.

in office, and, upon conviction thereof, shall be punished by fine or imprisonment in the discretion of the Court by any Court of competent juris-

Amendment.

SEC 3. Amend Section 3 of said Act so that it will read as follows: "That all the Board of County Commissioners shall be present for the transaction of business, and shall audit and sign all bills and cheeks. The checks shall in all cases be countersigned by the Clerk of the Board."

SEC. 4. Strike out "November," wherever it occurs in the Act, and insert "September."

Approved March 9, 1871.

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AN ACT TO RECHARTER MAXWELL'S BRIDGE, OVER SENECA RIVER, IN OCONEE COUNTY.

A. D. 1871. No. 401.

663

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the bridge known as Maxwell's Bridge, over Seneca River, in Oconee County, be, and the same is hereby, rechartered L. for the term of fourteen years, and the same vested in Mary L. Maxwell, and others. Marion Maxwell and Annie Sloan, their heirs and assigns, with the same privileges and rates of toll as those heretofore allowed by law. Approved March 9, 1871.

Vested in M. Maxwell

AN ACT TO Provide for the Redemption of Certain Lands Sold UNDER ORDER OF GENERAL Ed. R. S. CANBY, FOR TAXES.

No. 402.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all lands bought in by the Sheriff, for the State, sold under the provisions of an order of General Ed. R. S. Canby, dated Charleston, South Carolina, December 3, 1867, of lands sold "to provide for the support of the Provide for the P "to provide for the support of the Provisional Government of South Carolina for the year commencing the first day of October, 1867," &c., the same being done under General Orders, No. 139, be, and the same are hereby, entitled to be redeemed within a period of six months after the passage of this Act, upon the payment of the tax, interest and cost thereof, to the Sheriff of the County in which said lands were sold by virtue of said order.

SEC. 2. All Acts or parts of Acts, inconsistent with this Act. are hereby, repealed.

Approved March 9, 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT ESTABLISHING A LINE BEYOND WHICH THE WHARVES SHALL NOT BE EXTENDED IN THE CITY OF CHARLESTON, AND FOR OTHER PURPOSES," RATIFIED THE 21st DAY OF DECEMBER, A. D. 1836.

No. 403.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the line established by Section 1 of an Act entitled "An Act establishing a line beyond which the wharves shall not be extended in the City of Charleston, and for other purposes," ratified the 21st day of December, A. D. 1836, be extended to the blue line, lettered B, C, D, E, F, as marked and laid down on a plat of the wharves on the eastern boundary of the City of Charleston by Louis D. Barbot, City Engineer, dated the 6th day of January, A. D. 1871.

Sec. 2. That it shall be the duty of the City Council of Charleston to cause the aforesaid plat, with the line marked out by the City Engineer A. D. 1871. aforesaid, to be recorded in the office of the Secretary of State, and, also, in the office of the Register of Mesne Conveyance for Charleston County, within six months after the passage of this Act. Approved March 9, 1871.

No. 404. AN ACT TO INCORPORATE THE WACCAMAW AND LITTLE RIVER CANAL COMPANY.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Corporators. bly, and by the authority of the same, That J. S. Borroughs, W. E. Holcombe, George W. Price, Jr., Geo. T. Litchfield, T. C. Dunn and James E. Dusenbury, and such other persons as now are, or may become hereafter, associated with them, their successors and assigns, be, and they are hereby, constituted a body corporate and politic, by the name and style of the Waccamaw and Little River Canal Company, by which name they are hereby made capable in law to have, hold, purchase, receive, work, sell, mortgage, lease, enjoy and retain, to them, their successors and assigns, lands, tenements of all characters, and chattels of whatsoever kind, as may be deemed by them most conducive to the objects and interests of said corporation

Corporate rights.

Sec. 2. That said corporation, by its title aforesaid, may sue and be sued, plead and be impleaded, in any Court of this State, make and use a common seal, altering the same at pleasure, establish, alter and amend such by-laws and regulations as shall be deemed proper by them, not in conflict with the Constitution or laws of this State, or the United States.

Capital stock.

SEC. 3. The capital stock of said Company shall be two hundred thousand dollars, with the right to increase the same by a vote of a majority of the stockholders to any sum not exceeding five hundred thousand dollars; that said Company shall commence business as soon as its capital stock is fully subscribed, and fifty thousand dollars of the same paid up, which may be paid either in money or real estate, the same to be divided into such number of shares, and at so much per share, as said corporation may determine, said shares to be assignable and negotiable under such rules as said corporation may prescribe.

Annual meetings.

Sec. 4. That there shall be annual meetings of the stockholders, at such time and place as they may designate, for the purpose of choosing a Board of Directors, to consist of not less than five, nor more than nine (9), each of whom shall be a stockholder, and a President, and other officers of said corporation, to manage its affairs.

Office of company.

SEC. 5. That said Company shall keep an office at Little River, in Horry County, which, for all judicial purposes, shall be deemed its location

Purpose company.

SEC. 6. That the said Company shall and may cause a communication of inland navigation, by a canal and locks, to be made and kept up, through such places as to them shall seem most fit and convenient, from Waccamaw to Little River, in Horry County; and that they and their successors forever shall and may fix and establish, and be entitled to take and receive, by way of toll, for all goods and merchandise carried on or

through, and boats, vessels and rafts passing on or through the said canal, such sums or rates as the said Company shall think proper to impose; and the said Company, or their agents, may stop any goods, vessels, boats or rafts, from passing on the said canal until payment of the A. D. 1871.

SEC. 7. That the said Company shall have power to purchase for them-selves and their successors forever such lands as may be necessary for the them needed—how obtain-Sec. 7. That the said Company shall have power to purchase for thempurpose aforesaid; and where they and the owners of the said lands can-ed. not agree for the same, to take the said lands at a valuation to be made by a majority of five persons to be appointed by the Court of Common Pleas to value the same; which land shall, on payment of the sum at which it shall be so valued, be vested in the said Company forever.

Sec. 8. That the said Company shall be obliged to keep the said canal and locks, at all times, in good and sufficient order, condition and repair, on pain of being answerable for any damage occasioned by their willful

fault or neglect.

SEC. 9. That if any person shall, willfully or maliciously, cut, break down, damage or destroy any bank or other work to be erected, or made juring canal, for the purpose of the said navigation, such person shall be adjudged guilty of felony, and, on conviction, shall pay a fine not exceeding five thousand, nor less than five hundred dollars, or imprisoned in the Penitentiary, not exceeding ten or less than two years; and if any person shall throw dirt, trees, logs, or other rubbish, into the said canal, so as to prejudice the same, such person shall be answerable to the said Company for the damages occasioned thereby.

Persons in-

SEC. 10 That the said Company shall have power and authority to use any materials in the vicinity of said canal for making the same, or my to obtain the said locks, or keeping the same in repair, paying a reasonable price meeded. for the same, which price shall be ascertained in like manner as the value of land which the Company may take, as aforesaid, in case they and the owners of the said land cannot agree about the price thereof.

How compa-

SEC. 11. That the said Company shall and may collect water for the use of said canal and locks, making satisfaction for the damages done obtained. thereby; the said damages to be ascertained in the manner above directed with respect to the value of land.

Water-how

SEC. 12. That this Act shall be deemed and taken to be a public Act, judicially taken notice of as such, without special pleading, and liberally construed for carrying the purposes aforesaid into effect, for the term of thirty-five years, and to the sitting of the next General Assembly there-

Approved March 9, 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR No. 405. THE CONVERSION OF STATE SECURITIES."

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to provide for the conversion of State securities," approved March 23, A. D. 1869, be 77



amended as follows, to wit: The words "to be appropriated to his own use," in the third and fourth lines of Section 3d, to be changed so as to read "to be appropriated for the use and benefit of the State. Approved March 9, 1871.

No. 406. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO DEFINE THE CRIMINAL JURISDICTION OF TRIAL JUSTICES," APPROVED MARCH 1, 1870.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Trial Justi- bly, and by the authority of the same, Whenever a Trial Justice or Jusces may select persons tice of the Peace shall issue a warrant for the arrest of any person charged or Constables. with an offence above the grade of a misdemeanor, such Trial Justice or Justice of the Peace shall be authorized to select any citizen or citizens of the County to execute the same, upon his endorsement upon the said warrant that, in his judgment, the selection of such person or persons will be conducive to the certain and speedy execution of the said warrant; and the person or persons so selected shall have all the powers now, or hereafter, conferred by law upon any Constable within this State.

Neglect -penalty for.

Sec. 2. Any person or persons selected in the manner provided for in Section 1 of this Act shall be required forthwith to proceed to execute the said warrant, and upon his willfully, negligently or carelessly failing to make the arrest, or permitting the party to escape after arrest, he or they shall be punished, upon conviction, on indictment, by fine and imprisonment in the County jail, in the discretion of the Judge before whom the indictment may be tried; said imprisonment not to be less than six months.

Approved March 9, 1871.

AN ACT TO Provide for the Construction and Repair of No. 407. Public Highways.

Highway Districts.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That immediately after the passage of this Act, the County Commissioners of the several Counties shall divide their Counties into highway districts, each district to contain not less than ten miles of public highways, nor more than forty miles, to be

convenient for repairing highways, and may, from time to time, alter the surveyor for same; and they shall appoint for each highway district a Surveyor of Highways to superintend the expenditure of the highway tax and money appropriated for improvement of highways in his district, and to take charge of and keep in repair, at all times, the highways in his district. Said Surveyor of Highways shall be removable at pleasure; he shall be responsible to the County for any damages which may be sustained within

Surveyor of Highways shall give bond to the County, with good and suf-

Duty of such Surveyor.

his district, through fault or neglect in the discharge of his duty. Said

ficient sureties, to be approved by the County Commissioners, in double the amount of money to be expended in his district, for the faithful dis-

charge of his duties.

SEC. 2. That for the purpose of keeping in repair highways and bridges, the County Commissioners of each County shall, on or previous to the missioners first day of January, assess a tax of eighteen cents, if so much be neces- taxes. sary, on every hundred dollars of the lists of the County, to be paid in money or labor at the option of the tax payer, and laid out in repairing highways and bridges; and they shall annually, on or before the said first day of January, make out a tax bill for each Surveyor of Highways, containing the amount of the tax to be laid out by him in his district, with the amount of each person's tax annexed to his name, accompanied with a warrant, signed by the Chairman of the Board, authorizing such Surveyor to collect such tax; and they shall deliver the several tax bills to the respective Surveyors, and take their receipt for the same.

SEC. 3. The Surveyors of the several highway districts, after receiving their several tax bills and warrants, shall proceed to give notice control the payment of to the several persons liable to pay taxes in their districts of the taxes in labor amount of their taxes, and of the time and place in which, and the teams, carriages and tools with which they are required to pay their taxes in labor; but no person shall be liable to furnish any team, carriage or tool of which he is not the owner, except hoes, shovels or spades. notice may be given to all persons resident in the highway district, either personally or by written notice left at their usual residence; to non-residents by a written notice left with or at the residence of their tenants, agents, or persons having the care of their property; all of which notices shall be at least three days, and, in case of persons residing out of the highway district, at least ten days before the time appointed for them to commence their work; and if such non-residents shall have no tenant or agent in the town, notice may be posted up in some public or conspicuous place in the district; and the Surveyors shall make and keep a minute of the time and manner in which the notice shall be given.

Sec. 4. Any person, after he has commenced working in payment of his highway tax, shall be subject to the direction of the Surveyor, as to the times when, and the place where, his taxes shall be paid and laid out

in labor.

SEC. 5. That at least three-quarters of the highway tax in any highway district, payable in labor, shall be collected and laid out between the 15th day of January and the 1st day of May, and the remainder between the first day of August and the first day of October, in each year,

except as hereinafter provided.

Sec. 6. On any extraordinary occasion, when any bridge or highway shall be destroyed or impaired so as to require immediate repairs, or emergency. should be obstructed so as to require immediate labor to remove the obstruction, it shall be the duty of the Surveyor, forthwith, to cause the highway or bridge to be repaired, or the obstruction removed; and he may, for that purpose, call upon and notify any inhabitants of the district to afford him the necessary aid, or may hire other laborers, or employ other means to open or repair the highways and bridges; and, in such case, the notice shall be deemed sufficient to any person owing taxes, payable in the district, in order to make him liable for neglect to

A. D. 1871.

pay his taxes in money, if such notice shall be given six hours previous to the time when he is required to appear and labor. If any person shall, in such case, perform labor more than sufficient to pay the taxes due from him, or, if a person not indebted for taxes shall perform labor, the amount of such labor, or the balance, may be accredited to such person towards his highway tax the succeeding year.

Surveyor Sec. 7. if, on any such occasion as specified in the preceding Section, failing to repair high any Surveyor shall, for the space of twelve hours after application made ways, and to him for that purpose by any citizen residing within his district, negpenalty. lect to call upon the inhabitants of his district, or use the proper means to repair or open the highway or bridge which may be out of repair or obstructed, he shall forfeit and pay to the County Commissioners of the County, to be expended in repairing highways in such district, the sum of twenty-five dollars, to be collected in the name of the County, unless such Surveyor shall show sufficient reason for such neglect.

fusing to work on high-

SEC. 8. If, in any such case, any inhabitant of the district whose name Persons re- DEC. O. II, in any such case, any immediate to shall be on the tax bill of such district, whether any tax shall be due from him or not, shall, for the space of six hours after being called on or notified by the Surveyor for that purpose, without sufficient reason, neglect to turn out and assist in repairing or opening such highway or bridge, as he shall be required, he shall forfeit and pay to the County the sum of three dollars, to be collected and expended as provided in the preceding Section.

Penalty.

SEC. 9. If any person against whom a Surveyor shall have a tax bill, payable in labor, shall neglect, after being notified, as provided in this Act, to work out his tax, he shall be liable to pay his tax in money; and the Surveyor shall proceed to collect the same, and shall have all the power the County Treasurer has by law to collect State and County taxes; and he shall proceed in the same manner in the collection, and shall have the same fees.

SEC. 10. It shall be the duty of each Surveyor of Highways to lay out, in such manner as he may think beneficial in making and repairing highways in his district, all moneys collected by him in his tax bill, or

receive in any other way for that purpose.

Surveyor to keep account and return same to Coun-Commi 8 sioners.

Sec. 11. Each Surveyor shall keep full and regular accounts of all labor performed, and all moneys received and expended in his district, out of the labor that may have been performed by any persons over and above their taxes, and make return of his accounts to the County Commissioners, annually, in the month of November. And it shall be the duty of each Surveyor of Highways to pay over to the County Commissioners of the Coupty any moneys which may remain in his hands unexpended; and any moneys which may be so received from the Surveyor shall be paid over by the County Commissioners to the succeeding Surveyor, to be expended in the same district. And when any persons shall have overpaid their taxes, in labor or otherwise, the balance shall be accredited to such persons on their taxes for the succeeding year. any Surveyor of Highways shall resign or be removed from office, he shall also make such return to the County Commissioners as required in this Section, and turn over all moneys, books and papers pertaining to his office to the County Commissioners, or to his successor in office, as they may direct.

Sec. 12. If any Surveyor shall have failed to collect the taxes con-

tained in his tax bill, as required by law, or if he shall fail to pay over any moneys which he may have collected and not expended, the County

Commissioners shall proceed against him upon his official bond.

Sec. 13. If any person receive or suffer bodily injury, or damage in his property, through a defect or want of repair or sufficient railing in or jured on upon a highway, causeway or bridge, he may recover, in an action, of the ficiency County by law obliged to repair the same, the amount of damage sus roads, &c. tained thereby, if such County had reasonable notice of the defect, want of repair, or of insufficient railing, or if the same had existed for the space of twenty-four hours previous to the occurrence of the injury or damage; but no such damage shall be recovered by a person whose carriage and load thereon exceeds the weight of six tons.

Sec. 14. If, before the entry of an action provided for in the preceding Section, the County Commissioners tender to the plaintiff the amount how recoverwhich he would be entitled to recover, together with all legal costs, and the plaintiff does not accept the same, and does not recover upon his trial

more than the sum so tendered, the defendant shall recover costs

SEC. 15. If a County neglect to repair any of the highways or bridges which, by law, it is obliged to keep in repair, or neglect to make the same neglect - County liable. safe and convenient, such County shall be liable to indictment and fine, as the Court in its discretion may order. The fine imposed in such case shall be certified to the County Commissioners by the Clerk of the Court, and they shall proceed to collect the same from the Surveyor or Surveyors of the highway district or districts charged by this Act with the duty of superintending and keeping said highway or highways in repair; the sum, when collected, shall be laid out in the repair of highways and bridges in the County.

SEC 16. Each person who shall furnish work on the highways in payment of his highway tax. assessed by the County Commissioners, shall be which labor the beautiful by the county Commissioners, shall be with the shall be walallowed, for a good hand, at the rate of ten cents for each hour. It shall ued. be the duty of the Highway Surveyor of the district to make such allowance for the use of teams, carriages and tools, as shall be equitable and

SEC. 17. That all able-bodied male persons between the ages of eighteen and forty-five years shall be liable, annually, to perform on the public ble to work. highways and roads, not less than three, and not more than five days' labor, under the direction of the Highway Surveyor of their district: Provided, That if any person, being warned to work upon the highways, shall pay to the Highway Surveyor, in the district in which he may reside, the sum of one dollar per day for each day required, the same shall be received in lieu of such labor, and shall be applied by the said High-tion. way Surveyor to the construction and repair of the highways and roads in the district. And should any person refuse either to work on the highways and roads or to pay the fine imposed as a penalty for refusing to work upon the highways and roads, according to the direction of said Commissioners, the said persons shall be deemed guilty of a misdemeanor, and, on conviction thereof, punished by imprisonment in the County jail for the same, for a term not exceeding thirty days.

SEC. 18. Each Highway Surveyor provided for in this Act shall receive fifteen cents per hour for the time necessarily employed in discharging the duties required by this Act: Provided, That he shall not receive exceeding fifty dollars per annum, except in extraordinary cases, A. D. 1871.

Damages-

Penalty for

Persons lia-

Commuta-

Refusal.

Penalty.

when the County Commissioners may, in their discretion, allow a greater sum, and, in no event, more than seventy-five dollars.

Sec. 19. The County Commissioners shall, for the year 1871, levy no tax under this Act but that provided for in Section 17, but shall set apart a portion of the tax heretofore authorized to be raised for County purposes, and have the same laid out and expended under the provisions of this Act.

Sec. 20. All Acts and parts of Acts, inconsistent with this Act, are hereby repealed.

Approved March 9, 1871.

No. 408. AN ACT TO ESTABLISH A FERRY ACROSS THE CATAWBA RIVER, NEAR THE LATE JOHN S. PERRY'S MILL, AND FOR OTHER PURPOSES.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That a ferry over Catawka River, at a place where a ferry was formerly operated by Johnston and Perry, and about two hundred yards from the late John S. Perry's Mill, be char-Vested in S. tered and vested in Samuel McAlilley, his heirs and assigns, who shall be allowed the following rates of toll, to wit: For a person on horseback, ten cents; for a one horse team, fifteen cents; two horse team, twenty-five cents; three horse team, thirty-five cents; and four horse teams, fifty cents; ox teams, same as horse teams; foot passengers, five cents; loose horses and mules, five cents each; cattle, three cents; and hogs, sheep

> SEC. 2. That this charter shall remain in force for the term of fourteen years: Provided, That children going to and returning from school, and voters going to and returning from their polling precinct on election days, shall be exempt from paying toll at the said ferry.

County Commissioners to lay out road.

Ibid.

McAlilley.

SEC. 3. And be it further enacted, by the authority aforesaid, That the County Commissioners of Fairfield County do lay out, or cause to be laid out, made and kept in repair, in as direct a course as conveniently may be, a road from the "River Road," crossing the Wateree Creek at Perry's Old Mill, to said ferry, on the line of road formerly used to said ferry.

Sec. 4. And be it further enacted, by the authority aforesaid, That the County Commissioners of Lancaster County do lay out, make and keep in repair, in as direct a course as conveniently may be, a public road from said ferry, to the road leading to Liberty Hill and Camden, and that the same be declared a public highway, with permission to those over whose land said road may pass to erect gates across the same.

Approved March 9, 1871.

and goats, two cents each.

AN ACT TO CHARTER THE YEMASSEE AND MILLEN RAILROAD COM-No 409. PANY, IN THE STATE OF SOUTH CAROLINA.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-

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bly, and by the authority of the same, That for the purpose of establishing a Railroad Company from Yemassee, on the Savannah and Charleston Railroad, to a point at or near Millen, Georgia, that a charter, with the rights and privileges incidental to the same, be, and is hereby, granted to, and vested in, John D. Bates, Francis E. Douner, Lewis D. Sam, Daniel Johnson, James A. Dunbar, Lewis Brum, Emery Washburn, John B. Dennis, Kerney L. Jones, Timothy Hurley, Anson W. Thayer, H. H. Montgomery, George Waterhouse, J. C Mayo, J. M. Crofut, H. M. Stewart, Sr., H. J. Maxwell, and their associates; and when a Company shall be formed, in compliance with the conditions herein prescribed, it shall be known by the name of the Yemassee and Millen Railroad Company, and shall have a corporate existence, as a body politic, in perpetuity.

SEC. 2. That the capital stock of said Company shall be five million Capital stock. (5,000,000) dollars, in shares of twenty-five dollars each; and, in order to raise the said capital stock, it shall be lawful to open books of subscription in such places, and at such times, as may be deemed for the best interests of the corporation, under the direction of the corporators the times and places for receiving such subscriptions to be determined by a majority of the corporators; but should such a majority fail to fix such times and places, then such times and places may be fixed by any four of the corporators hereinbefore named, having given due notice of the same in any newspaper or newspapers of the State; and the subscription books shall be kept open for twenty days from such times, and at such places, as said corporators may determine; that on each share of stock subscribed the said subscribers shall pay two dollars to the corporators, who shall deposit the same in some national or State bank. When one hundred thousand dollars shall have been subscribed, the said corporators, or any four of them, shall give notice, by publication for at least ten days, of the time and place of meeting for organization.

Sec. 3. Whenever the said sum of one hundred thousand dollars shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be, and they are hereby, declared to be incorporated into a Company, and shall have all the rights and privileges conferred upon the Savannah and Charleston Railroad Company, ratified December 21st, A. D. 1853: Provided, however, That nothing herein contained shall be so construed as to exempt the said Company from the payment of taxes: And provided, further, That this Act shall not be construed so as to

bind the State to endorse, guarantee or aid said road.

SEC. 4. That the said Company shall have the right to build bridges across navigable rivers: Provided, They shall put in good and sufficient draws, and shall construct necessary stations and turn-outs, with one or more tracks to the road, with such gauge as will correspond with that of the Savannah and Charleston Railroad, and may co-operate with such road or roads as may be chartered by the State of Georgia, forming but one road, at their discretion: Provided, That the said road shall be commenced within one year, and completed within five years, after the pas-pleted. sage of this Act, or the charter thereof shall be forfeited: And provided, further, That said road shall be subject to the provisions of an Act entitled "An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations may be taken for the con-

A. D. 1871.

Corporators.

Subscription

Notice of

May build bridges. Proviso.

struction and uses of railways, and other works of internal improvement," ratified September 22d, A. D. 1868.

SEC. 5. This Act shall be deemed a public Act, and continue in force

for twenty-one years.

Approved March 9, 1871.

No. 410. AN ACT TO AUTHORIZE AND REQUIRE THE COUNTY COMMISSIONERS OF BARNWELL COUNTY TO ESTABLISH A ROAD FROM BLACKVILLE TO ALLENDALE.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners Direction of of Barnwell County be, and they are hereby, authorized, empowered and required to lay out, make and keep in repair a public road leading from Blackville to Allendale, and crossing the Big Saltkahatchie Swamp, just above the entrance of Hercules Creek.

Surveyor.

Sec. 2. That said County Commissioners shall appoint a competent person to survey and lay out said road, and, as soon thereafter as practi-

cable, cause the same to be constructed.

Erect bridges

Sec. 3. That in the construction of this road contemplated by the previous Sections of this Act, should there be necessity for the erection of bridges, the County Commissioners, on the recommendation of the surveyor of said road, shall cause public notice to be given, with the specifications required, and award the building of the same to the lowest bidder: Provided, however, Said bidder shall file his bond with the proper officers, in double the amount of the contract, for the faithful carrying out of its provisions.

Persons lia-

SEC. 4. That the County Commissioners be further authorized and reble to public quired to order out all persons liable to road duty residing within four miles of the line of said road, as located, (excepting those living in incorporated towns) to perform three days' work in each month on said road, until its completion, to the satisfaction of the County Commissioners, commencing the first month after the passage of this Act, notice to be given by the County Commissioners in the manner that such notices have been heretofore given—defaulters to be fined two dollars (\$2) for each day's failure to work as notified, the fines to be collected by the County Commissioners, and paid into the Treasury for the use of the said

Penalty.

County. Sec. 5. That the bridges mentioned in the third Section of this Act be completed during the first and second month from the commencement of construction of said road.

Approved March 9, 1871.

No. 411. AN ACT to Empower the State to Maintain the Beneficiaries IN THE LUNATIC ASYLUM, INSTEAD OF THE SEVERAL COUNTIES.

> Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-

bly, and by the authority of the same, That from and after the passage of this Act, all beneficiaries now in, or hereafter to be placed in, the State Lunatic Asylum, be supported by the State.

State to support the State.

Sec. 2. That the State assume the liabilities of each and every of claries and assume liabilities of each and every of claries and every of each and every of claries and every of each and every the Counties that is now in arrears for the support of its beneficiaries.

SEC. 3. All Acts or parts of Acts inconsistent with this Act are hereby Counties. repealed.

Approved March 9, 1871.

AN ACT TO VEST THE RIGHT AND TITLE OF THE STATE IN AND TO CERTAIN ESCHEATED PROPERTY IN A CERTAIN PERSON THEREIN NAMED.

No 412.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That all the right, title and interest which the State may have in a certain tract of land, containing two hundred acres, more or less, situate and lying in Mariboro County, lately held by John Ross, deceased, be, and the same is hereby, vested in John Wetherspoon, Executor of the last will and testament of the said John Ross, in trust, to dispose of the said property, and to distribute the proceeds arising therefrom under the provisions of said will.

Approved March 9, 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE No. 413. FORMATION OF CORPORATIONS," APPROVED DECEMBER 10, 1869.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Act entitled "An Act to regulate the formation of corporations," approved December tenth, A. D. 1869, be amended as follows: In Section fourteen strike out the words "five hundred thousand dollars," and insert instead thereof the words "three millions of dollars;" in Section thirty-three, second line, after the words "shall not exceed," and before the words "the amount of its capital stock," insert the word "double." Section forty-one is repealed.

SEC. 2 That any incorporation formed in compliance with the terms of Corporations

this Act is hereby empowered and authorized to issue bonds, secured by bonds. lien on the property of the said corporation, to an amount not exceeding the value of the property owned by said corporation, with interest on said bonds payable semi-annually; and it is further provided that any corporation formed in compliance with the terms of this Act is hereby authorized and empowered to issue additional bonds to such an amount additional that the interest thereon at 8 per cent. per annum shall not exceed the bonds. net income of said corporation.

Approved March 9, 1871.

No. 414. Limits town.

AN ACT TO ALTER AND RENEW THE CHARTER OF THE TOWN OF MANNING.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to incorporate certain towns and villages," approved on the 28th day of January, A. D one thousand eight hundred and sixty, be, and the same is hereby, altered and amended as follows, to wit: That from and after the passage of this Act, all and every person or persons who shall have resided in the corporate limits of the village of Manning for two months are hereby declared to be members of the corporation hereby to be created.

SEC 2. That the said persons shall, from and after the passing of this Act, become a body politic and corporate, and shall be known and called or by the name of the town of Manning, and its corporate limits shall extend one-half mile in every direction from the Court House, as a centre, except on the side next to Black River, the line of which, formed at high water, shall constitute its boundary in that direction.

Intend an t and Wardens.

four Wardens, who shall have resided in the State for one year, and within the limits of the corporation for sixty days immediately preceding The said Intendant and Wardens shall be elected on the their election. Term of office second Monday of the month of April, in each year, ten days' notice being previously given, and shall continue in office one year, and until the election and qualification of their successors; and all male inhabitants of the said town who shall have attained the age of twenty-one

SEC 3. That the said town shall be governed by an Intendant and

years, and resided therein two months immediately preceding the election, shall be entitled to vote for said Intendant and Wardens. SEC. 4. That the said election shall be held in some convenient public

when and where held. place in said town, from eight o'clock in the morning until four o'clock in the evening; and when the polls shall be closed, the Managers shall forthwith count the votes and declare the election, giving notice in writing to the persons elected. The Intendant and Wardens, for the time being, shall always appoint the Managers to conduct the election, who, before they open the polls for the said election, shall take an oath fairly and impartially to conduct the same. And the Intendant and

Election -

Wardens, before entering upon the duties of their offices, shall, respectively, take the oath prescribed by the Constitution of this State, and Oath of office. the following oath, to wit: "As Intendant (or Warden) of the town of Manning, I will, equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purpose for which I have been elected: So help me God." And if any person, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay to said Town Council the sum of twenty dollars, for the use of said town: Provided, That no person who has attained the age of sixty years shall be compelled to serve in either of the said offices, nor shall any other person be compelled to serve more than one year in any term of three years.

Vacancies... how filled.

Sec. 5. That in case any vacancy should occur in the office of Intendant or any of the Wardens, by death, resignation, or otherwise, an

election to fill such vacancy shall be held by the appointment of the Intendant or Warden, or Wardens, as the case may be, ten days' previous notice being given; and, in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect

one of their number to act as Intendant during the time.

SEC. 6. That the Intendant and Wardens duly elected and qualified Judicial powshall, during their term of service, severally and respectively, be vested with all the powers of a Trial Justice or other inferior Court; and the Intendant shall and may, as often as may be necessary, summons the Wardens to meet in Council; any two of whom shall, with the Intendant or any three Wardens, constitute a quorum to transact business, and they shall be known by the name of the Town Council of And they, and their successors hereafter to be elected, may have a common seal, which shall be affixed to all their ordinances, may sue and be sued, may plead and be impleaded, in any Court of law or equity in this State, and purchase, hold, possess and enjoy to them and their successors, in perpetuity, or for any term of years, any estate, real or personal, or mixed, and sell, alien or convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars. And the Intendant and Wardens shall have full power to make and establish all such rules, by-laws and ordinances respecting the roads, streets, markets and police of said town, as shall appear to them necessary and requisite for the security, welfare and convenience of said town, or for preserving health, order, peace and good government within the same; and all the by-laws, rules and ordinances the said Council may make, shall, at all times, be subject to revisal or repeal by the General Assembly of this State. And the said Council may fix and impose fines the same to the and penalties for the violation thereof, and appropriate the same to the public uses of said corporation: Provided, That no punishment shall exceed fifty dollars' fine or thirty days' imprisonment.

SEC. 7. That the Intendant and Wardens of said town shall have full and only power to grant or refuse licenses to keep taverns, or to retail spirituous liquors within the corporate limits of said town, upon such conditions, and under such circumstances, as to them shall seem proper and right: Provided, That in no instance shall the price of a license to keep tavern, or to retail spirituous liquors, be fixed at a less sum than is established by the law of this State; and all moneys paid for licenses, and for fines and forfeitures for retailing spirituous liquors, keeping tavern and billiard tables within the limits without licenses, shall be appropriated to the public uses of said town: Provided, That the Intendant and Wardens, duly elected and qualified, shall not have power to grant any license to keep taverns or retail spirituous liquors to extend beyond the term for which

they have been elected.

SEC. 8. That it shall be the duty of the Intendant and Wardens to keep all roads, streets and ways within their corporate limits open and in good repair. They shall have power to compound with all persons liable ble to work to work the streets, ways and roads in said town, upon such terms as they, on streets. by ordinance, shall establish, the moneys so received to be applied to the public use of said town; and all persons refusing or failing to pay such commutation shall be liable to such fine, not exceeding twenty dollars, as the Town Council may impose.

SEC. 9. The said Town Council shall have power to regulate sales at

A. D. 1871.

ers of officers.

May impose

May grant licenses.

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Sales at auc-

auction within the limits of said town, and to grant licenses to said auctioreers: Provided, Nothing herein contained shall extend to sales by Sheriff, Clerk of Court, Judge of Probate, Coroner, Executor or Administrator, Assignee in Bankruptcy, or by any Trial Justice or other inferior Court.

Annual taxation.

Sec. 10. They shall also have power to impose an annual tax not exceeding twenty cents on every hundred dollars of the assessed value of real and personal estate lying within the corporate limits of said town, the real and personal estate of churches and school associations excepted, and to regulate the price of licenses upon all public shows and exhibitions in the said town; to erect a powder magazine, and compel any person holding more than twenty-five pounds of powder to store the same therein, and to make regulations for the rates of storage thereof, and for keeping and delivering the same. The said Council shall have power to enforce the payment of all taxes levied under authority of this Act, against the property and person of all defaulters, to the same extent and in the manner as is provided by law for the collection of the general taxes, except that executions to enforce the payment of the town taxes shall be issued under the seal of the corporation, and directed to the Town Marshal or other persons especially appointed by the Town Council to collect the same; and all property upon which a tax shall be levied is hereby declared and made liable for the payment thereof, in preference to all other debts against the said property, except debts due to the State, which shall first be paid.

May open new streets.

SEC. 11. That the said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within the town as they may deem necessary, by the sale of the freehold therein, either at public or private sale, as they may adjudge best for the interest of the said town; and they shall have power to lay out, adopt, open and keep in repair all such new streets, roads and ways within the town as they may deem necessary for the improvement and convenience of the said town: Provided, That no new street, road or way shall be opened without first having obtained the consent of the land owner or owners through whose premises any such new street, road or way may pass.

point

authorized, to elect one or more Marshals, (in addition to the Sheriff of Clarendon, who shall also be a Marshal of the town,) to fix their salaries and prescribe their duties, who shall be sworn in and invested with Their duties, all the powers and subjected to all the duties and liabilities that Constables now have or are subjected to by law, in addition to the duties and liabilities specially conferred and imposed upon them by the Town Council: Provided, That their jurisdiction shall be confined within the

Sec. 12. That the said Town Council shall have power, and are hereby

May estabguard house.

limits of the said town. SEC. 13. That the said Town Council shall have power to establish a guard house, and to prescribe, by ordinance, suitable rules and regulations for keeping and governing the same, and until such guard house shall be established, they shall be authorized to use a room in the common jail of Clarendon County for the confinement of all persons who may be subject to be committed for violation of any ordinance of the town, passed in conformity to the provisions of this Act; and the said Town Council may, by ordinance, or the said Intendant and

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Wardens, in person, any one or more of them, authorize and require any Marshal of the town, or any Constable, specially appointed for that purpose, to arrest and commit to said guard house or jail of Clarendon County, as the case may be, for a term not exceeding twenty-four hours, be committed any person or persons, who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or in any conduct grossly indecent or dangerous to the citizens of the said town, or any of them; and it shall be the duty of the Town Marshals to arrest and commit all such offenders when required to do so, who shall have power to call to their assistance the posse comitatus, if nee l be, to aid in making such arrests; and upon failure of the Town Marshal to perform such duty as required, they shall severally be subject to such fines and penalties as the Town Council may establish; and all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said costs and expenses shall be collected in the same manner as provided by this Act for the collection of fines imposed for violation of ordinances: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose for the offence for which he may have been committed.

SEC. 14. That the said Town Council shall have the power to collect the taxes from all persons representing, publicly, within the corporate limits, for gain or reward, any plays or shows, of any kind whatsoever, to

be used for the purpose of said town.

Sec. 15. That all the fines which shall hereafter be collected for retailing, without license, within the corporate limits of the said town, shall be paid one-half to the informer, and the other half to the Council, for the use of the said town.

SEC. 16. That the said Town Council shall have power to abate all nuisances within their corporate limits; and, also, to appoint a Board of sances. Health for said town, and to pass such ordinances as may be necessary to define the duties and powers of the said Board, and to impose fines and penalties upon the members of the said Board, for neglect of duty or refusal to serve: Provided, That no fine hereby authorized to be imposed shall exceed the sum of twenty dollars.

Sec. 17. That the said Town Council shall have power to borrow money for the public use of the corporation, by issuing, from time to time, as occasion may require, the bonds of the corporation, bearing interest at a rate not to exceed seven per centum a year, to be paid semi-annually, for an amount not to exceed five thousand dollars; and for the payment of the interest, and the ultimate redemption of the principal, according to the terms of the loan, the said corporation shall, at all times, be liable: Provided, That the private property of the inhabitants of the said town shall be bound for the redemption of the said loan in no other way than by the imposition of an annual tax, according to the provisions of this

Sec. 18. That the Intendant and Wardens elect shall, during their term of office, be exempt from street duty Each Town Council shall, within one month after the expiration of their term of office, make out and return to their successors, a full account of their receipts and expenditures during their time, and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and papers

A. D. 1871.

Who may

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issue

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incidental to their office, to their successors; and on failure to do so, they shall be liable to be fined in a sum not exceeding one hundred dollars, to be collected in any proper action by the Town Council.

Neglect of duty of offi-cers, and pen-

SEC. 19. That for any willful violation or neglect of duty, malpractice, abuse or oppression, the said Intendant and Wardens, jointly and severally, shall be liable to indictment in the Court of Sessions, and, upon conviction, to punishment, as prescribed in the preceding Section, besides being liable for damages to any person or persons injured.

SEC. 20. That all ordinances heretofore passed by the Town Council of Manning, in conformity with the authority granted by such existing laws as do not conflict with the Constitution of the State, shall be, and they

are hereby, declared legal and valid.

SEC. 21. That all Acts and parts of Acts heretofore passed in relation to incorporation of the village of Manning be, and the same are hereby, repealed.

Sec. 22. This Act shall be deemed a public Act, and continue in force

until amended, altered or repealed.

Approved March 9, 1871.

No. 415.

AN ACT TO INCORPORATE THE TOWN OF FLORENCE.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passage of this Act, all and every person or persons, who shall have resided in the corporate limits of the village of Florence for two months, are hereby declared to be members of the corporation hereby to be created.

SEC. 2. That the said persons shall, from and after the passage of this Act, become a body politic and corporate, and shall be known and called of by the name of the Town of Florence, and its corporate limits shall extend one mile in every direction from the corner of Front and Dargan Streets, in said town.

Intend an t

Limits town.

SEC. 3. That the said town shall be governed by an Intendant and and Wardens, four Wardens, who shall have resided in the State for one year, and within the limits of the corporation for sixty days immediately preceding their election. The said Intendant and Wardens shall be elected on the second Monday of the month of April, in each year, ten days' no-Term of office tice being previously given, and shall continue in office one year, and until the election and qualification of their successors; and all male inhab-

itants of the said town who shall have attained the age of twenty-one years, and resided therein two months immediately preceding the election, shall be entitled to vote for said Intendant and Wardens. SEC. 4. That the said election shall be held in some convenient public

Election how and when held.

place in said town, from six o'clock in the morning until six o'clock in the evening; and when the polls shall be closed the Managers shall forthwith count the votes, and declare the election, giving notice in writing to the persons elected. The Intendant and Wardens, for the time being, shall always appoint the Managers to conduct the election, who, before they open the polls for the said election, shall take an oath fairly

and impartially to conduct the same. And the Intendent and Wardens, before entering upon the duties of their offices, shall, respectively, take the oath prescribed by the Constitution of this State, and the following oath, to wit: "As Intendant (or Warden) of the Town of Florence, I Oath of office. will equally and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace, and carry into effect, according to law, the purpose for which I have been elected: So help me God." And if any person, upon being elected Intendant or Warden, shall refuse to act as such, he shall forfeit and pay to said Town Council the sum of twenty dollars, for the use of said town: Provided, That no person who has attained the age of sixty years shall be compelled to serve in either of the said offices, nor shall any other person be compelled to serve more than one year in any term of three years.

Vacancieshow filled.

SEC. 5. That in case any vacancy should occur in the office of Intendant, or any of the Wardens, by death, resignation or otherwise, an election to fill such vacancy shall be held by the appointment of Intendant and Warden or Wardens, as the case may be, ten days' previous notice being given; and in case of sickness or temporary absence of the Intendant, the Wardens, forming a Council, shall be empowered to elect one of their number to act as Intendant during the time.

SEC. 6. That the Intendant and Wardens duly elected and qualified shall, during their term of service, severally and respectively, be vested with all the powers of a Trial Justice or other inferior Court; and the Intendant shall and may, as often as may be necessary, summon the Wardens to meet in Council, any two of whom shall, with the Intendant, or any three Wardens, constitute a quorum to transact business, and they shall be known by the name of the Town Council of Florence. they and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all their ordinances, may sue and be sued, may plead and be impleaded in any Court of law or equity in this State, and purchase, hold, possess and enjoy to them and their successors, in perpetuity, or for any term of years, any estate, real or personal or mixed, and sell, alien, or convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars. And the In-property. tendant and Wardens shall have full power to make and establish all such rules, by-laws and ordinances respecting the roads, streets, market and police of said town, as shall appear to them necessary and requisite for the security, welfare and convenience of said town, or for preserving health, order, peace and good government within the same; and all the by-laws, rules and ordinances the said Council may make shall, at all times, be subject to revisal or repeal by the General Assembly of this And the said Council may fix and impose fines and penalties for the violation thereof, and appropriate the same to the public uses of said corporation: Provided, That no punishment shall exceed fifty dollars, or thirty days' imprisonment.

SEC. 7. That the Intendant and Wardens of said town shall have full and only power to grant or refuse licenses to keep taverns, or retail spir-ses. ituous liquors within the corporate limits of said town, upon such conditions, and under such circumstances, as to them shall seem right and proper: Provided, That in no instance shall the price of a license to keep a tavern, or to retail spirituous liquors, be fixed at a less sum than is

Grant licen-

established by the laws of this State; and all moneys paid for licenses, and for fines and forfeitures for retailing spirituous liquors, keeping tavern and billiard tables within the said limits, without licenses, shall be appropriated to the public uses of said town: Provided, That the Intendant and Wardens, duly elected and qualified, shall not have power to grant any license to keep taverns or retail spirituous liquors to extend beyond the term for which they have been elected.

Persons liable to work on streets.

SEC 8. That it shall be the duty of the Intendant and Wardens to keep all roads, streets and ways within their corporate limits open and in good repair. They shall have power to compound with all persons liable to work the streets, ways and roads in said town, upon such terms as they, by ordinance, shall establish, the moneys so received to be applied to the public use of said town; and all persons refusing or failing to pay such commutation shall be liable to such fine, not exceeding twenty dollars, as the Town Council may impose.

Sales at auc-

SEC. 9. The said Town Council shall have power to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: Provided, Nothing herein contained shall extend to sales by Sheriff, Clerk of Court, Judge of Probate, Coroner, Executor or Administrator, Assignee in Bankruptcy, or by any of the persons out of the order, decree of any Court, Trial Justice or other inferior Court.

Annual tax-

SEC. 10. They shall also have power to impose an annual tax not exceeding fifty cents on every hundred dollars of the assessed value of real and personal estate lying within the corporate limits of said town, the real and personal estate of churches and school associations excented. The said Council shall have power to regulate the price of licenses upon all public shows and exhibitions in the said town; to erect a powder magazine, and compel any person holding more than twenty-five pounds of powder to store the same therein, and to make regulations for the rates of storage thereof, and for keeping and delivering the same. The said Council shall have power to enforce the payment of all taxes levied under authority of this Act, against the property and person of all defaulters, to the same extent, and in the same manner, as is provided by law for the collection of the general taxes, except that executions to enforce the payment of the town taxes shall be issued under the seal of the corporation, and directed to the Town Marshal or other person especially appointed by the Town Council to collect the same; and all property upon which a tax shall be levied is hereby declared and made liable for the payment thereof, in preference to all other debts against the said property, except debts due to the State, which shall first be paid.

May open

Sec. 11. That the said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within the town as they shall deem necessary, by the sale of the freehold therein, either at public or private sale, as they may adjudge best for the interest of the said town, and they shall have power to lay out, adopt, open and keep in repair all such new streets, roads and ways within the town as they may deem necessary for the improvement and convenience of the said town: Provided, That no new street, road or way shall be opened without first having obtained the consent of the land owner or owners through whose premises any such new street, road or way may pass.

Proviso.

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SEC. 12. That the said Town Council shall have power, and are hereby authorized, to elect two or more Marshals, (in addition to the Sheriff of Darlington, who shall be a Marshal of the town,) to fix their salaries and Marshals. prescribe their duties, who shall be sworn in and invested with all the powers, and subjected to all the duties and liabilities that Constables now have, or are subjected to by law, in addition to the duties and liabilities specially conferred and imposed upon them by the Town Council: Provided, That their jurisdiction shall be confined within the limits of the said town.

A. D. 1871.

May appoint

SEC 13. That the said Town Council shall have power to establish a Guard house. guard house, and to prescribe, by ordinance, suitable rules and regulations for keeping and governing the same; and, until such guard house shall be established, they shall be authorized to use a room in the common jail of Darlington County for the confinement of all persons who may be subject to be committed for violation of any ordinance of the town, passed in conformity to the provisions of this Act; and the said Town Council may, by ordinance, or the said Intendant and Wardens in person, any one or more of them, authorize and require any Marshal of the town, or any Constable, specially appointed for that purpose, to arrest or commit to said guard house or jail of Darlington County, as the case may be, for a term not exceeding twenty-four hours, any person or per-committed to sons who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or in any conduct grossly indecent or dangerous to the citizens of the said town, or any of them; and it shall be the duty of the Marshals to arrest and commit all such offenders, when required to do so, who shall have power to call to their assistance the posse comitatus, if need be, to aid in making such arrests, and, upon failure of the Town Marshal to perform such duty, if required, they shall severally be subject to such fines and penalties as the Town Council may establish; and all persons so imprisoned shall pay the costs and expenses incident to their imprisonment, which said costs and expenses shall be collected in the same manner as provided by this Act for the collection of fines imposed for violation of ordinances: Provided, That such imprisonment shall not exempt the party from the payment of any fine the Council may impose for the offence for which he may have been committed.

Who may be

Proviso.

SEC. 14. That the said Town Council shall have the power to collect the taxes from all persons representing, publicly, within the corporate limits, for gain or reward, any plays or shows, of any kind whatsoever, to be used for the purpose of said town.

SEC. 15. That all the fines which shall hereafter be collected for retailing, without license, within the corporate limits of the said town, shall be paid one half to the informer, and the other half to the Council, for the use of the said town.

SEC. 16. That the said Town Council shall have power to abate all nuisances within their corporate limits; and also to appoint a Board of Health of said Town, and to pass such ordinances as may be necessary to define the duties and powers of said Board, and to impose fines and penalties upon the members of the said Board, for neglect of duty or refusal to serve: Provided, That no fine hereby authorized to be imposed shall exceed the sum of twenty dollars. The said Town Council of Florence shall have power and authority to require the owner or owners of any lot

Board of

Sidewalks.

or lots in the said Town, to keep the streets in front of said lot or lots clear of all filth and rubbish, and also to make and keep in good repair sidewalks in front of said lot or lots when the same shall front on or adjoin any of the public streets of the said Town, if, in the judgment of the said Town Council, such sidewalks shall be necessary; the width thereof and the manner of their construction to be designated and regulated by the said Town Council; and for default or refusal on the part of such owner or owners to keep the said streets clean, or to make and keep in repair such sidewalks whenever required, the said Town Council may cause the said streets to be cleaned, or such sidewalks to be made and kept in repair, and require such owner or owners to pay the costs and expenses thereof: Provided, however, That contracts for cleaning the said streets, or making and putting in repair such sidewalks, shall be let to the lowest bidder.

Proviso.

Мау issue bonds.

SEC. 17. That the said Town Council shall have power to borrow money for the public use of the corporation, by issuing, from time to time, as occasion may require, the bonds of the corporation, bearing interest at a rate not to exceed seven per centum a year, to be paid semiannually, for an amount not to exceed five thousand dollars; and for the payment of the interest, and the ultimate redemption of the principal, according to the terms of the loan, the said corporation shall at all times be liable: Provided, That the private property of the inhabitants of the Town shall be bound for the redemption of the said loan in no other way than by the imposition of an annual tax, according to the provisions of this Act.

Proviso.

SEC. 18. That the Intendant and Wardens elect shall, during their term of office, be exempt from street duty. Each Town Council shall, within one mouth after the expiration of their term of office, make out and return to their successors a full account of their receipts and expenditures during their time, and shall pay over all moneys in their possession belonging to the corporation, and deliver up all books, records and papers incidental to their office to their successors; and on failure to do so, they shall be liable to be fined in a sum not exceeding one hundred dollars, to be collected in any proper action by the Town Council.

Neglect of Sec. 19. That for any willful violation or neglect of duty, malfeasance duty of office, abuse or oppression, the said Intendant and Wardens, jointly and severally, shall be liable to indictment in the Court of Sessions, and, upon conviction, to punishment as prescribed in the preceding Section, besides being liable for damages to any person or persons injured.

Sec. 20 That all Acts and parts of Acts heretofore passed in relation to incorporation of the Town of Florence be, and the same are hereby, repealed.

SEC. 21. This Act shall be deemed a public Act, and continue in force until amended, altered or repealed.

Approved March 9, 1871.

No. 416. AN ACT TO RENEW AND AMEND THE CHARTER OF THE TOWN OF AN-DERSON.

> Section 1. Be it enacted by the Senate and House of Representatives. of the State of South Carolina, now met and sitting in General Assembly,

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and by the authority of the same, That from and immediately after the passage of this Act, all and every person or persons who may have resided within the corporate limits of the town of Anderson for one year, or who may own a freehold therein, and their successors, are hereby declared to be members of the corporation hereby intended to be created.

SEC. 2. That the said persons and their successors shall, from and after the passage of this Act, become a body politic and corporate, and shall be known and called by the name of the town of Anderson, and its corporate limits shall extend one mile in the direction of the cardinal points from the court house thereof as a centre, and form a square.

A. D. 1871.

four Wardens, who shall be persons that actually reside within the limits and Wardens of the corporation and have so resided at the limits and wardens of the corporation, and have so resided at least twelve months immediately preceding their election. The said Intendant and Wardens shall be elected on the second Monday in September in each year, ten days' notice having been previously given, and shall continue in office for one year, and until the election and qualification of their successors; and all male inhabitants of said town, who shall have attained the age of twenty-one years, and resided therein sixty days immediately preceding the election, shall be entitled to vote for said Intendant and Wardens: Provided, That no person shall be allowed to vote at any such election who shall not have registered his name as a voter with the Clerk of the Council, in a book or books to be kept by him for that purpose, by ten o'clock A. M., on the day preceding every such election

Electors.

SEC. 4. That said election shall be held in some convenient public place Sec. 4. That said election shall be held in some convenient public place Election — in said town, from nine o'clock in the morning until five o'clock in the when, where evening and when the polls shall be closed the Managers shall forth, and how held. evening; and when the polls shall be closed the Managers shall forthwith proceed to count the votes under oath, stating the whole number of votes cast for each candidate or person voted for, and shall transmit their report of the same, in a sealed envelope, to the Intendant of the town; and if there be no such Intendant, the same shall be transmitted to the Clerk of the Court of Anderson County. The said Intendant or Clerk of the Court shall open the report of the said Managers, and shall announce and publish the whole number of the votes cast, and the whole number cast for each candidate, when the several candidates receiving the highest number of legal votes for the offices for which they were The Intendant and Wardens, voted for, shall be declared duly elected. for the time being, shall always appoint three Managers to conduct the election, who, before they open the polls for said election, shall take the oath fairly and impartially to conduct the same; and the Intendant and Wardens, before entering upon the duties of their office, shall, respectively, take the oath prescribed by the Constitution of this State, and also the following oath, to wit: "As Intendant (or Warden) of the town of Oath of office. Anderson, I will faithfully and impartially, to the best of my ability, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect, according to law, the purposes for which I have been elected: So help me God."

SEC 5. In case a vacancy should occur in the office of Intendant, or any of the Wardens, by death, resignation, or otherwise, an election to fill such vacancy shall be held by the appointment of the Intendant and Warden, or Wardens; and in case there be none, then by the appointment of the Clerk of the Court of Anderson County.

A. D. 1871.

Judicial powers of officers,

SEC. 6. That the Intendant and Wardens, duly elected and qualified, shall be, during their term of office, vested with all the powers and authority with which Trial Justices are at present vested by law, except the trial of civil cases, and except as it may be otherwise provided in this Act; and the Intendant shall and may, as often as may be necessary, summon the Wardens to meet in Council, any two of whom, with the Intendant, or any three Wardens, may constitute a quorum to transact business; and they shall be known by the name of the Town Council of Anderson; and they and their successors, hereafter to be elected, may have a common seal, which shall be affixed to all their ordinances; may sue and be sued, plead and be impleaded, in any Court of law or equity in this State, and purchase, hold, possess and enjoy to them and their successors, in perpetuity, or for any term of years, any estate, real, personal or mixed, and sell, alien and convey the same: Provided, The same shall not exceed, at any one time, the sum of ten thousand dollars. And the said Intendant and Wardens shall have full power to make and establish all such rules, by-laws and ordinances respecting the roads, streets, markets and police of said town, as shall appear to them necessary and requisite for the security, welfare and convenience of the said town, or for preserving health, peace, order and good government within And the said Council may fix and impose fines and penalties for the violation thereof, and appropriate the same to the public use of the said corporation: Provided, That in all cases of trials to be had before the said Town Council, as hereinbefore provided, the party charged shall be cited to trial by service upon him of a summons, under the hand of the Intendant, any one of the Wardens, or the Clerk of the Council, wherein shall be expressed with certainty the offence charged, and the time and place of trial, which service shall be made at least five days before the day of trial.

Proviso.

May grant

SEC. 7. That the Intendant and Wardens of the said town shall have full and only power to grant or refuse license to retail spirituous liquors within the said limits, which license shall be granted in the same manner and upon the same conditions as they now are, or may hereafter be, under the laws of this State, except that the Town Council shall have the power to regulate the price of license to keep taverus and to retail spirituous liquors: Provided, That in no instance the price of a license so to keep tavern or retail spirituous liquors shall be fixed at a less sum than is established by the laws of this State; and all the powers vested formerly in the Commissioners of Roads are hereby granted to the said Intendant and Wardens within the said limits; and all moneys paid for licenses, and for fines and forfeitures, for retailing spirituous liquors, keeping taverns and billiard tables within the said limits without license, shall be appropriated to the uses of said corporation: Provided, That the Intendant and Wardens duly elected and qualified shall not have power to grant any licenses to keep tavern or retail spirituous liquors to extend beyond the time for which they shall have been elected.

Roads, ways and streets.

Sec. 8. That it shall be the duty of the said Intendant and Wardens to keep all streets, roads and ways within their corporate limits open and in good repair, and for that purpose they are invested with all the powers granted formerly to the Commissioners of Roads. And they shall have power to compound with all persons liable to work the streets,

ways and roads in said town, upon such terms as they shall, by ordinance, establish; the moneys so received to be applied to the public use.

SEC. 9. That the said Town Council shall have power to impose an annual tax upon the keepers of all billiard tables and ten pln alleys, or other pin alleys, within the discretion of said Council, and to grant or refuse licenses for the same, upon such terms and conditions, and subject to such regulations as they may, by ordinance, establish. also have power to impose a tax, within their discretion, on all sales made by itinerant traders and auctioneers, on all public drays, wagons, carriages, omnibuses, and other vehicles kept for hire, and on the owners or proprietors of all dogs, hogs, sheep, goats and cattle kept within the corporate limits of said town. The said Town Council shall have power to impose an annual tax on the amount of all sales of goods, wares and merchandise, and also on the amount of income arising from all factorage and merchandise, employments, faculties and professions, including the profession of dentistry; also upon the amount of income from all moneys loaned at interest, and from dividends received from banks and all other stocks: Provided, That no tax shall be imposed in any one case to exceed the rate of thirty cents on each hundred dollars of the value of such sales and income. And the said Town Council shall have power to impose an annual tax on all carriages and wagons, of whatever kind, kept for private use; on all gold, silver and other watches kept for private use within the limits of the said town And the said Town Council shall have power to impose an annual tax, not exceeding thirty May impose cents on every hundred dollars of the value of all real estate lying within the corporate limits of said town, the real estate of churches and school associations excepted; and, for that purpose, they shall appoint three freeholders residing therein to assess the value of said real estate upon oath, and return the assessment within one month to said Council for taxation, and to fill any vacancy occasioned by the death, resignation, refusal to serve or removal from office of the said Assessor And the said Town Council shall have power to regulate the price of licenses upon all public shows and exhibitions in said town, to erect a powder magazine, and to compel any person holding more than twenty-five pounds of powder to store the same therein, and to make regulations for rates of storage thereof, and for keeping and storing the same. And the taxes. said Town Council shall have power to enforce the payment of all taxes and assessments levied under the authority of this Act against the property and persons of defaulters, to the same extent, and in the same manner, as is provided by law for the collection of the general State tax, except that executions to enforce the payment of town taxes shall be issued under the seal of the corporation, and directed to the Town Marshal, or other persons especially appointed by the said Town Council to collect the same; and all property upon which a tax shall be levied and assessed is hereby declared and made liable for the payment thereof, in preference to other debts due by the person owning such property at the time of the assessment, except debts due the State, which shall be first The said moneys, together with all other moneys collected by authority of the provisions of this Act, and the ordinances passed in conformity thereto, from whatever source said moneys may arise, to be paid into the Treasury of said town for the use of the corporation.

SEC. 10. That returns shall be made, on oath, to the Clerk of the Town

A. D. 1871.

Annual tax-

Proviso.

Enforce the

Collect i o n

any party in default shall be subject to the penalties now provided by

A. D. 1871. Council, during the month of January, in each year, of the amount of all sales of merchandise, professional, mechanical or other incomes, and of the quantity and kind of all other property than real estate subject to taxation under the provisions of this Act, by persons who may be liable to pay the taxes on the same; and the said taxes shall be paid on or before the first day of March then next ensuing; upon failure thereof,

law for failure to pay the general State tax.

Sidewalk s.

SEC. 11. That the said Town Council shall have authority to require all persons owning a lot or lots in said town to make and keep in good repair sidewalks in front of said lot or lots whenever the same shall front on or adjoin any public street of said town, if, in the judgment of the Council, such sidewalks shall be necessary, the width thereof, and the manner of their construction, to be designated and regulated by the said Council: and for default or refusal to make and keep in repair such sidewalks, the Town Council may cause the same to be made and put in repair, and require the owner to pay the price of making or repairing; and the said Town Council are hereby empowered to sue for and recover the same by action of debt in any Court of competent jurisdiction in Anderson County: Provided, That such contract for making or repairing be let to the lowest bidder.

SEC. 12. That the said Town Council shall have power, with the consent of the adjacent land owners, to close all such roads, streets and ways within the said Town as they may deem necessary, by sale of the freehold therein, either at private or public sale, as they may adjudge best for the interest of said town; and they shall also have power to lay out, adopt, open and keep in repair all such new streets, roads and ways as they may, from time to time, deem important or necessary for the improvement and convenience of said town: Provided, That no new street, road or way shall be opened without first having obtained the consent of the land owner through whose premises any such new street, road or way may pass.

Proviso.

May appoint

SEC. 13. That the said Town Council shall have power, and are hereby authorized, to elect one or more Marshals (in addition to the Sheriff of Anderson, who shall also be a Marshal of the Town), to fix their salaries and prescribe their duties, who shall be duly sworn in and invested with all the power, and subjected to all the duties and liabilities that Constables now have, or are subjected, by law, in addition to the duties and liabilities specially conferred and imposed on them by the Town Council: Provided, That their jurisdiction shall be confined to the corporate limits of said town.

Guard house.

Sec. 14. That the said Town Council shall have power to establish a guard house, and to prescribe, by ordinances, suitable rules and regulations for keeping and governing the same; and until such guard house shall be established, they shall be authorized to use a room in the common jail of Anderson County for the confinement of all persons who may be subject to be committed for the violation of any ordinance of the town, passed Who may be in conformity with the provisions of this Act; and the said Town Council may, by ordinance, or the said Intendant and Wardens in person, any one or more of them, authorize and require any Marshal of the town, or any Constable, specially appointed for that purpose, to arrest and to commit to the said guard house or jail of Anderson County, as the case may

be, for a term not exceeding twenty-four hours, any person or persons

committed to

who, within the corporate limits of said town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness, or in any conduct grossly indecent or dangerous to the citizens of said town, or any of them; and it shall be the duty of the Town Marshals to arrest and commit all such offenders, when required so to do, who shall have power to call to their assistance the posse comitatus, if need be, to aid in making such arrest; and upon the failure of such Marshals to perform such duty as required, they shall, severally, be subject to such fines and penalties as the Town Council may establish; and all persons so imprisoned shall pay the costs and expenses incident to their imprisonment: Provided, That such imprisonment shall not exempt the party from payment of any fine the Council may impose for the offence for which he may have been committed.

A. D. 1871.

Proviso.

SEC. 15. That the said Town Council shall have power to collect the taxes from all persons representing publicly within their corporate limits, for gain or reward, any plays or shows, of what nature or kind soever, to be used for the purposes of said corporation.

SEC. 16. That all fines, which shall hereafter be collected by conviction in the Court of Sessions, for retailing without license within the corporate limits of said town, shall be paid one-half to the informer, and the other half to the said Town Council. for the uses of the corporation.

SEC. 17. The said Town Council shall have power and authority to abate all nuisances within the corporate limits, and also to appoint a Board of Health for said town, and to pass all such ordinances as may

be necessary to define the powers and duties of said Board.

SEC. 18. That the said Town Council shall have power to borrow money for the public use of the corporation by issuing, from time to time, money an issue bonds. as occasion may require, the bonds of said corporation, bearing interest at a rate not exceeding seven per centum per annum, to be paid semi-annually, for an amount not to exceed the sum of fifteen thousand dollars; and for the payment of the interest, and the ultimate redemption of the principal, according to the terms of the loan, the said corporation shall be at all times liable: Provided, That the property of the inhabitants of said town shall be bound for the redemption of said loan in no other way than by the imposition of an annual tax, according to the provisions of this Act: And provided, further, That a majority of the owners of real estate within the corporate limits of said town, shall first vote in viso. favor of issuing said bonds, and the said Town Council shall give at least thirty days' notice of holding such election.

May borrow

Proviso.

Further pro-

SEC. 19. That the Intendant and Wardens shall, during their term of office, be exempt from street duty; and each Town Council shall, within one month after the expiration of their term of office make out and return to their successors, a full account of their receipts and expenditures during their term, and shall pay over all moneys in their hands, belonging to the corporation, and deliver up all property, books, records and other papers incident to their office, to their successors; and, on failure so to do, they shall be liable to the punishment prescribed in the twenty-first Section of this Act.

SEC. 20. That all ordinances heretofore passed by the Town Council of Anderson, in conformity with the authority granted by existing laws, shall be, and they are hereby, declared legal and valid.

SEC. 21. That for any willful violation or neglect of duty, malpractice,

A. D. 1871. Neglect of duty of offi -

abuse or oppression, the said Intendant and Wardens, jointly and severally, shall be liable to indictment in the Court of Sessions, and, upon conviction, to punishment by fine, not exceeding one hundred dollars, besides cers, and pen- being liable for damages to any person injured.

Sec. 22. That all Acts and parts of Acts heretofore passed in relation to the incorporation of the town of Anderson be, and the same are hereby, repealed. And this Act shall be deemed and taken to be a public Act, and continue in force for the term of twenty years, and until the end of the session of the Legislature then next ensuing

Approved March 9, 1871.

No. 417. AN ACT TO CHARTER THE SOUTH CAROLINA PHOSPHATE AND PHOSPHATIC RIVER MINING COMPANY, IN THE STATE OF SOUTH CAROLINA, AND TO GRANT TO THE PERSONS THEREIN NAMED, AND THEIR ASSOCIATES, THE RIGHT TO DIG AND MINE IN THE Beds of the Navigable Streams and Waters of the State OF SOUTH CAROLINA FOR PHOSPHATE ROCKS AND PHOSPHATIC DEPOSITS.

corporators, bly, and by the authority of the same, That the State of South Carolina does hereby give and grant to the following persons, to wit: R. B. Elliott, Robert Smalls, W. J. Whipper, N. B. Myers, Lucius Wimbush, W. B. Nash, S. A. Swails, H. J. Maxwell, James M. Allen, W. H. Jones, B. A. Bosemon, B. Byas, Edward Mickey, E. Nchemias, W. R. Jervey, J. N. Hayne, Timothy Hurley, Anson W. Thayer, John B. Bates, J. C. Mayo, James M. Crofut, F. J. Moses, Jr, A. J. Ransier, C. W. Montgomery, B. F. Whittemore and R. A. Sisson, and such other persons as they may associate with them, the right to dig, mine and remove, for the full term of thirty years, from the beds of the navigable streams and waters within the jurisdiction of the State of South Carolina, the phosphate rocks and phosphatic deposits: Provided, That the persons named, and their associates, shall not in any way interfere with the free navigation of the navigable streams and waters of this State, or the private rights of any citizen or citizens residing upon or owning the lands upon the banks of the said navigable rivers and waters of the

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-

Purpose company.

Shall pay \$1

State. Sec. 2. That this gift and grant is made upon the express condition for every ton. that said grantees shall pay to the State of South Carolina the sum of one (1) dollar per ton for every ton of phosphate rock and phosphatic deposits dug, mined and removed from the said navigable rivers and waters of the State; and, further, that the said grantees shall pay into the Treasury of the State the sum of five hundred dollars, as a license · fee, before commencing business under said grant.

Shall file bond.

SEC. 3. Before commencing operations under authority of this Act, said grantees and their associates shall file, or cause to be filed, in the office of the State Auditor, a bond in the penal sum of fifty thousand (50,000) dollars, conditioned that said grantees and their associates shall make true and faithful returns to said State Auditor, annually, on or

before the first day of October, and oftener, if required by the said State Auditor, of the number of tons of phosphatic rocks and phosphatic deposits dug, mined and removed by them from the beds of the navigable streams and waters of the State; and shall punctually pay to the State Treasurer, annually, on the first day of October, one (1) dollar per ton for every ton of phosphate rocks and phosphatic deposits by them dug, mined and removed from the beds of the navigable streams and waters of the State during the year preceding; said bond to be renewed annually, and approved by the Attorney-General. The books of said grantees and their associates shall be opened to the inspection of the State Auditor, or agent duly appointed by him for that purpose.

SEC. 4. That the capital stock of said Company shall consist of two Capital stock. million (2,000,000) dollars, to be divided into shares of one hundred dollars each, with the privilege of increasing the same to an amount not exceeding five million dollars; and when the sum of three hundred thousand dollars shall have been subscribed, the said Company may be

organized and go into operation.

SEC. 5. That the profits of said Company may, from time to time, be divided among the stockholders according to such rules and regulations profits. as they may prescribe, not repugnant to the laws of the State.

Sec. 6. That the stock of said Company may be transferred in such manner and form as may be directed by the by-laws of the Company.

SEC. 7. The said Company shall be entitled to all the rights and privileges accorded to other corporations incorporated by the laws of this State: Provided, That nothing in this Act shall be construed as giving to the said South Carolina Phosphate and Phosphatic River Mining Company the exclusive right to dig and mine in the navigable rivers and waters of the State.

Sec. 8. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

Approved March 9, 1871.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE ENTERPRISE RAILROAD COMPANY, OF CHARLESTON, SOUTH CARO-LINA," APPROVED MARCH 1, 1870.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, The Enterprise Railroad Company are hereby authorized to lay their railroad track through and along any street of the city of Charleston, which may be necessary, in order to connect with the track of the South Carolina Railroad Company, and track of the Northeastern Railroad Company, and to connect East Bay Street with the Ashley River.

SEC. 2 The said company are further authorized to lay their railroad May connect track and run their cars from any point or points on the Cooper River, to with Ashley Cooper any point or points on the Ashley River, within the City of Charleston, Rivers. or within ten miles of the corporate limits of said city.

SEC. 3. The said company are further authorized to issue seven per Issue of bonds

Division of

No. 418.

Extent of

cent. coupon bonds, to the amount of ten thousand dollars for every mile of completed railway.

May connect with wharves

SEC. 4. The said company are further authorized to lay their railway track or tracks, should it be found desirable, down to the water front of any of the wharves of the said city.

Transportation of freight gers.

SEC. 5. The track or tracks herein authorized may be used by said and passen company for carrying freights and passengers, or either, at the option of said company.

Approved March 9, 1871.

AN ACT TO REGULATE THE MANNER OF DRAWING JURIES. No. 419.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-Who liable bly, and by the authority of the same, All persons who are qualified to be drawn. to vote in the choice of Representatives in the General Assembly shall be liable to be drawn and serve as jurors, except as hereafter provided.

Who exempt from jury.

SEC. 2. The following persons shall be exempt from serving as jurors, to wit: The Governor, Lieutenant Governor, Attorney-General, Comptroller-General, State Auditor, State Treasurer, Secretary of State, Superintendent of Education, Commissioner of Agricultural Statistics, members and officers of the Senate and House of Representatives during the session of the General Assembly, members of the Senate and House of Representatives of the United States, Judges and Justices of any Court, County Commissioners, County Auditors and Treasurers, Clerks of Courts, Registers of Mesne Conveyance, Sheriffs and their Deputies, Coroners, Constables, the Marshals of the United States and their Deputies, and all other officers of the United States, counsellors and attorneysat-law, ordained ministers of the Gospel, officers of colleges, preceptors and teachers of academies, practicing physicians and surgeons regularly licensed, cashiers and tellers of incorporated banks, editors of newspapers, constant ferrymen, millers carrying on that business at the time, and all men actually employed as such; such officers and employees of railroads as are now exempt by law, and persons who are more than sixty-five years old.

How often person may be drawn.

SEC. 3. No person shall be liable to be drawn and serve as a juror in any Court oftener than once in every year; but he shall not be so exempt, unless he actually attends and serves as a juror in pursuance of the draft: Provided, No person shall be exempt from serving on a jury in any other Court in consequence of his having served before a Justice of the Peace, or Trial Justice.

Governor to appoint Jury Commission -

Sec. 4. There shall be appointed by the Governor, and confirmed by the Senate, one officer for each County in the State, to be named and designated a Jury Commissioner, who, with the County Auditor and Chairman of the Board of County Commissioners, shall constitute a Board of Jury Commissioners for the County. Said Jury Commissioner shall hold his office for two years, unless sooner removed by the Governor.

Duty of Jury Commission ers.

SEC 5. The Board of Jury Commissioners of each County shall, once in every year, during the month of January, and for the present year within

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one month after the passage of this Act, prepare a list of such inhabitants of their respective Counties, not absolutely exempt, as they may think well qualified to serve as jurors, being persons of good moral character, of sound judgment, and free from all legal exceptions, which list shall include not less than one from every twenty voters, nor more than one from every ten voters, of their respective Counties.

SEC. 6. Of the list so prepared, the Board of Jury Commissioners shall cause the names to be written, each one on a separate paper or ballot, and shall fold up said pieces of paper or ballots so as to resemble each other as much as possible, and so the name written thereon shall not be visible on the outside, and shall place them in a box, to be furnished them by the County Commissioners of their County for that purpose, and

by said Board of Jury Commissioners to be kept.

SEC. 7. If any person whose name is so placed in said jury box is con- Persons guilvicted of any scandalous crime, or is guilty of any gross immorality, his not to be name shall be withdrawn therefrom by the Board of Jury Commis-drawn.

sioners, and he shall not be returned as a juror.

SEC 8. The Clerk of the Court of Common Pleas in each County, at Clerk-when least fifteen days before the commencement of any regular term of the and how to summon ju-Court of General Sessions for the County, and ten days before any rors. special session requiring a jury, and in the County of Charleston like periods before the first of each alternate week of the Court of Common Pleas, and at such other times as the respective Courts may order, shall issue writs of venire facias for jurors, and shall therein require the attendance of jurors on the first day of the term, and for the Court of Common Pleas for the County of Charleston on the first and each alternate week thereafter, and such other days as the Courts may order. The petit jurors returned for the Court of General Sessions for Charleston County shall serve for the term, and the jurors returned for the Court of Common Pleas for two weeks; the jurors for the Court of General Sessions for all other Counties shall serve for the term, and for the term of the Court of Common Pleas immediately following.

SEC. 9. The venires shall be delivered to the Sheriff of the County, and shall be served by him without delay upon the Board of Jury Com- serve venires.

missioners of the County.

Sec. 10. Nothing contained in the preceding Sections shall prevent the Clerk of any Court of Common Pleas from issuing venires for additional jurors in term time, whenever it is necessary for the convenient dispatch of its business, in which case the venires shall be served and returned, and the jurors required to attend on such days as the Court shall direct.

Sec. 11. All jurors, whether required to serve on grand or petit jury, shall be selected by drawing ballots from the jury box, and the persons whose names are borne on the ballots so drawn shall be returned to serve

as iur rs.

Sec. 12. When jurors are to be drawn, the Board of Jury Commissioners shall attend at the office of the Clerk of the Court of Common Pleas within and for that County, and in the presence of the Clerk of the Court, and the Sheriff of the County, shall shake up the names in the jury box until they are well mixed, and having unlocked said box, the said Board of Jury Commissioners, in the presence of the Clerk of the Court and Sheriff of the County, shall proceed to draw therefrom, without seeing the names written thereon, a number of ballots equal to the

A. D. 1871.

Mode of drawing jury.

Sheriff

Additional Jurors.

Jurors-how

number of jurors required. If a person so drawn is exempted by law, or is unable, by reason of sickness or absence from home, to attend as a juror, or if he has served as a juror in any Court within the year then next preceding, his name shall be returned into the box, and another drawn in his stead: Provided, That if the Clerk and Sheriff shall fail to attend, after due notice, the Jury Commissioners shall proceed without them, and the jury so drawn shall be lawful.

Sec. 13. When any person is drawn and returned to serve as a juror in any Court, the Board of Jury Commissioners shall endorse on the ballot the date of the draft, and return it into the box after the number of jurors required have been drawn; and whenever there is a revision and renewal of the ballots in the box, the Board of Jury Commissioners shall transfer to the new ballots the date of all the drafts made within the

year then next preceding.

SEC. 14. The time for drawing jurors shall not be less than seven nor more than fifteen days before the day when the jurors are required to attend.

Sheriff to return nires to Clerk of Court.

SEC. 15. The Sheriff shall, at least four days before the time when the jurors are required to attend, summon each person who is drawn, by reading to him the venire, with his endorsement thereon of his having been drawn, or by leaving at his place of abode a written notification of his having been drawn, and of the time and place of the sitting of the Court at which he is to attend, and shall make return of the venire, with his doings thereon, to the Clerk of the Court, before the opening or time of holding the Court from which it issued.

Empannel-

SEC. 16 On the day when the jurors are summoned to attend at any ling of juries. Court, the Clerk shall prepare a list of their names arranged in alphabetical order The first twelve on the list who are not exempt, shall be sworn and empannelled as a jury for the trial of causes, and shall be called the first jury. The next twelve on the list shall be sworn and empannelled in like manner, and shall be called the second jury.

> Sec. 17. Supernumerary junors may be excused, from time to time, until wanted, and may be put on either of the juries, as occasion requires, in the place of absentees. Nothing herein contained shall prevent the transferring of jurors from one jury to another, when the convenience of

the Court or of the jurors requires it.

Foremanhow chosen.

Sec. 18. Each jury, after being thus empannelled, shall retire and choose their foreman, or shall make such choice upon retiring with the first cause with which they are charged; and whenever the foreman is absent or excused from further service, a new foreman shall be chosen in like manner.

SEC. 19. Nothing contained in the preceding Sections shall apply to the empannelling of juries in criminal cases; but the jurors shall be called, sworn and empannelled anew for the trial of each case, according to the established practice, and their foreman shall be appointed by the Court or by the jury when they retire to consider their verdict.

ries to be supplied.

SEC. 20. When, by reason of challenge, or otherwise, a sufficient How insuf. SEC. 20. When, by reason of character, to be obtained for the ficiency in ju-number of jurors, duly drawn and summoned, cannot be obtained for the trial of any cause, civil or criminal, the Court shall cause jurors to be returned from the by-standers, or from the County at large, to complete the panel: Provided, That there are on the jury not less than seven of the jurors who were originally drawn and summoned, as before provided.

SEC. 21. The jurors so returned from the by-standers, or the County at large, shall be returned by the Sheriff, whose duty it shall be to be present during the entire term of sitting of any Court in their respective Counties, and shall be such as are qualified and liable to be drawn as

jurors, according to the provisions of this Act.

SEC. 22. The Court shall, on motion of either party in a suit, examine, on oath, any person who is called as a juror therein, to know whether he disinterested is related to either party, or has any interest in the cause, or has expressed before them. or formed any opinion, or is sensible of any bias or prejudice therein, and the party objecting to the juror may introduce any other competent evidence in support of the objection. If it appears to the Court that the juror is not indifferent in the cause, he shall be placed aside as to the trial of that cause, another shall be called.

SEC. 23. In indictments and penal actions for the recovery of a sum of money, or other thing forfeited, it shall not be a cause of challenge to a juror, that he is liable to pay taxes in any County, city or town, which

may be benefitted by such recovery.

Sec. 24. If a party knows of any objection to a juror in season to propose it before the trial, and omits to do so, he shall not afterwards be al-

lowed to make the same objection, unless by leave of the Court.

Sec. 25. No irregularity in any writ of venire facias, or in the drawing, summoning, returning or empannelling of jurors, shall be sufficient to set aside a verdict, unless the party making the objection was injured by the irregularity, or unless the objection was made before the returning of the verdict.

SEC. 26. If either party in a case in which a verdict is returned during verdict, when set aside. the same term of the Court, before the trial, gives to any of the jurors who try the cause anything by way of treat or gratuity, the Court may, on the motion of the adverse party, set aside the verdict, and award a new trial of the cause.

SEC. 27. When a jury, after due and thorough deliberation upon any cause, return into Court, without having agreed upon a verdict, the Court may state anew the evidence, or any part of it, and explain to them anew the law applicable to the case, and may send them out for further deliberation; but if they return a second time without having agreed upon a verdict, they shall not be sent out again without their own consent, unless they shall ask from the Court some further explanation of the law.

Sec. 271. That the said Jury Commissioners, appointed by the Gov-compensation ernor, shall receive for their services three dollars per day for every day's actual service, in performing the duties imposed by this Act, such number of days not to exceed the number of days the Court for such County shall be in session, together with five days to complete the list and draw the jurors, to be paid out of the Treasury of their respective Counties.

the jurors, to be paid out of the Treasury of their respective Counties.

SEC. 28. The jury in any case may, at the request of either party, be view pace, property, or taken to view the place or premises in question, or any property, matter thing in question. or thing relating to the controversy between the parties, when it appears tion. to the Court that such view is necessary to a just decision: Provided, The party making the motion advances a sum sufficient to pay the actual expenses of the jury and the officers who attend them in taking the view, which expenses shall be afterwards taxed like other legal costs, if the party who advanced them prevails in the suit.

A. D. 1871.

Jurors to be

Jury agreeing.

Failure to attend - pen-

SEC. 29. If a person duly drawn and summoned to attend as a juror in any Court neglects to attend, without sufficient excuse, he shall pay a fine not exceeding twenty dollars, which shall be imposed by the Court to which the juror was summoned, and shall be paid into the County Treasury.

SEC. 30. When, by neglect of any of the duties required by this Act to be performed by any of the officers or persons herein mentioned, the jurors to be returned from any place are not duly drawn and summoned to attend the Court, every person guilty of such neglect shall pay a fine not exceeding one hundred dollars, to be imposed by the same Court, to

the use of the County in which the offence was committed.

Jury Comguilty fraud.

Penalty.

SEC. 31. If the Board of Jury Commissioners shall be guilty of fraud, either by practicing on the jury box previously to a draft, or in drawing a juror, or in returning into the jury box the name of any juror which had been lawfully drawn out, and drawing or substituting another in his stead, or in any other way in the drawing of jurors, he shall be punished by a fine not exceeding five hundred dollars, or be imprisoned not exceeding two years in the State Penitentiary.

SEC. 32. Nothing contained in this Act shall effect the power and duty of Coroners, Justices of the Peace or Trial Justices, to summon and empannel jurors, when authorized by other provisions of law.

SEC. 33. The Clerk of the Court of General Sessions in each County, not less than fifteen days before the commencement of the first term of the Court in each year, shall issue writs of venire facias in each County Ju. for eighteen Grand Jurors to be returned to that Court, who shall be held to serve at each term thereof throughout the year, and until another

Grand

How drawn ed.

SEC. 34. Grand Jurors shall be drawn, summoned and returned in the and summon same manner as jurors for trials, and, when drawn at the same time as jurors for trials, the persons whose names are first drawn, to the number required, shall be returned as Grand Jurors, and those afterwards drawn, to the number required, shall be jurors for trials.

> Sec. 35. In case of deficiency of Grand Jurors in any Court, writs of venire facias may be issued to the Sheriff of the County, in which said Court is held, to return forthwith such further number of Grand Jurors from the by-standers, as may be required.

> SEC. 36. No more than thirty-six persons to serve as Petit Jurors shall be drawn and summoned to attend, at one and the same time, at any

Court, unless the Court shall otherwise order.

Grand Jury is empannelled in their stead.

SEC. 37. That any person who shall hereafter be arraigned for the crime of murder, manslaughter, burglary, arson or rape, or grand larceny, shall be entitled to all the incidents of an arraignment, and to peremptory challenges, not exceeding twenty, and the State, in such cases, shall be entitled to peremptory challenges, not exceeding two, in the manner heretofore prescribed by law. And any person who shall be indicted for any crime or offence, other than those above enumerated, shall have the right to peremptory challenges of five, and the State, in such cases, shall be entitled to peremptory challenges, not exceeding two

SEC 38. That an Act entitled "An Act to regulate the manner of drawing jurors," approved the 26th day of September, A. D. 1868, and the Act entitled "An Act an to amend an Act entitled 'An Act to regulate the drawing of jurors," approved the 23d day of March, 1869, and all other

Challenges.

Acts, or parts of Acts, in any way conflicting with the provisions of this Act, be, and the same are hereby, repealed.

A.D. 1871.

Sec. 39. That this Act shall take effect, and have the full power of law, from and after its passage.

Approved March 10, 1871.

AN ACT TO ESTABLISH A NEW JUDICIAL AND ELECTION COUNTY FROM PORTIONS OF THE COUNTIES OF BARNWELL, EDGEFIELD, LEX-INGTON AND ORANGEBURG, TO BE KNOWN AS AIKEN COUNTY.

No. 420.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That a new Judicial and Election County, with its seat of justice located at the Town of Aiken, which County shall be known as Aiken County, shall be formed, and is hereby authorized to be formed, from portions of the present Counties of Barnwell, Edgefield, Lexington and Orangeburg, with the metes and bounds hereinafter described, to wit: commencing at the mouth of Fox's Creek, in Edgefield County, where it empties into Savannah River, thence in a straight line to where the South branch of Chinquepin Falls Creek, (a tributary of the North Edisto River) intersects the Edgefield and Lexington line; thence down said creek to where it empties into the North fork of the Edisto River, and down the said North fork to where the dividing line between Lexington and Orangeburg Counties (running from Big Beaver Creek to the North fork of the Edisto) touches said river; thence in a straight line to the head of Tinker's Creek, in Barnwell County; thence down said creek to where it empties into the Upper Three Runs, and down said Runs Creek to where it empties into the Savannah River; thence up the Savannah River to the initial point at the mouth of Fox's Creek.

Limits and boundaries of

SEC. 2 That Frank Arnim, M. F. Maloney, P. R. Rivers, J. L. Jami- Commissionson, E. Ferguson, J. N. Hayne, E. J. C. Wood, P. R. Rockwell, J. A ers to run o boundaries. Greene, W. H. Reedish and B Byas, be, and are hereby, appointed Commissioners to run out and properly make and define the said boundary lines, with the assistance of two (2) competent surveyors, to be selected by them.

Sec. 3. That S. J. Lee, Frank Arnim, P. R. Rivers, C. D. Hayne, John Wooley, E. J. C. Wood, J. N. Hayne, Levi Chavis, W. H. Reedish and J H. Cornish, be, and are hereby, appointed Commissioners to provide suitable buildings for the several Courts and County officers, and to and select and purchase, or procure sites for the usual public buildings, and to contract for and superintend the erection of the Court House and Jail thereon; and that said public buildings shall be built at the expense of the citizens of said County, and, to meet the said demands, a special tax on the assessed value of real and personal property in said County be

Court Ho^{use} offices.

SEC. 4. That an election shall be held in the County of Aiken, as established by this Act, on the third Wednesday of October, A. D 1872, officers. for members of the General Assembly, and the regular County Officers provided for by the Constitution and laws of the State, and the officers

A. D. 1871.

so elected shall, before entering upon the duties of their respective offices, be required to give bond, with sureties, as now is or may be required by law.

SEC. 5. That until the next apportionment of Representatives, the representation of the several Counties of this State affected by this Act shall remain as now established.

Territor i a l jurisdict i o n of officers, &c.

SEC. 6. That the County of Aiken be, and it is hereby, attached to the Third Congressional District, and shall form part and parcel of the Sixth Judicial Circuit, and that the regular terms of the Courts of General Sessions and Common Pleas shall be held in the Town of Aiken, on the second Monday of January, May and September of each year, and that the Justices of the Peace, Constables, in the several Counties affected by this Act, who shall be in office at the time this Act goes into effect, shall continue in office until their successors shall have been elected, and shall have qualified: Provided, however, That the Justices of the Peace and Constables now in office shall, from and after the time this Act goes into effect, be confined and limited in their official capacity, duty and power to the limits of their respective Counties, as altered by this Act, and the said officers residing in Aiken County shall, in like manner, be restricted in their official function to said County of Aiken

Transfer of suits Courts.

Sec. 7. That from and after the fourth day of October, A. D. 1872, all in suits pending in the Courts of Barnwell, Edgefield, Lexington and Orangeburg, of which the defendants reside in those portions of the said Counties now established as the County of Aiken, and all indictments now pending in the Courts of said Counties, where the offence was committed in those parts of the said Counties now established as the County of Aiken, shall be transferred to the dockets of the Courts of the said County of Aiken, and all records, commissions, and other papers belonging to any of the said suits or indictments, together with all the legal incidents thereunto appertaining, shall be transferred to the Clerk of the Court of the said County of Aiken, and all writs and other processes already issued and made returnable to the fall term of the Courts of Barnwell, Edgefield, Lexington and Orangeburg, where the defendants in the said cases reside in the parts of the said C unties now established as the County of Aiken, shall be as valid and effectual as though they had been issued to the fall term of the Court of the said County of Aiken; and the service of such processes by the Sheriff of any of the said Counties shall be as good and effectual as a service to the Fall Term of the Court of the said County of Aiken; and all such writs and processes shall be transferred by the Clerks of the Courts of the said Counties to the Clerk of the Court of the County of Aiken.

Jury lists.

SEC. 8. That the Board of Jury Commissioners of Barnwell, Edgefield, Lexington and Orangeburg Counties, be, and are hereby, required to prepare and furnish to the Board of Jury Commissioners of Aiken County, on or before the fourth Monday of October, 1872, separate lists of persons liable to serve as jurors, and residing in the limits of the said Coun-Juries-how ties, as altered by this Act. From the lists so furnished to the Board of Jury Commissioners of Aiken County shall be drawn, in accordance with law, the Petit and Grand Jurors, and talesmen of the Courts to be holden in Aiken County, in conformity with the provisions of this Act, and the jurors so drawn are hereby declared lawful jurors, to all intents and purposes.

drawn.

Approved March 10, 1871.

AN ACT TO CHARTER THE JACKSONBORO FERRY.

A. D. 1871.

No. 421.

Vested in

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the ferry formerly known as the Jacksonboro Ferry, across the Edisto River, shall be, and the same is hereby, established a public ferry, and vested in Thomas Grant, his heirs and assigns, for a term of seven years, with the privilege of collecting the following rates of toll, to wit: For each carriage and four horses, seventy- Bates of fare. five cents; for each carriage and two horses, fifty cents; for each carriage and one horse, twenty-five cents; for horse and rider, fifteen cents; for each foot passenger, five cents; for each horse, five cents; for each head of cattle, five cents; for each head of sheep, goats, or hogs, two cents: Provided, That he shall have the said ferry fully established and in good working order within six months after the passage of this Act: And provided, further, That should the said Thomas Grant, in the exercise of the privileges conferred upon him by the foregoing charter, work damage or injury to any person using said ferry, through negligence or dereliction of duty, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall forfeit such chartered privileges.

Approved March 10, 1871.

AN ACT TO RENEW THE CHARTER OF THE FERRY KNOWN AS ASHE-POO FERRY.

No. 422.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the charter of the Ferry across Ashepoo River, and known as "Ashepoo Ferry," be, and the same is, renewed for Heyward. the term of fourteen years, and is hereby vested in Nathaniel Heyward, his heirs, executors, administrators and assigns, for said term of fourteen years, together with all the rights, privileges and immunities heretofore incorporated in said charter.

Vested in N.

Approved March 10, 1871.

AN ACT TO AMEND SECTION 22 OF THE CODE OF PROCEDURE.

No. 423.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section 22 of an Act entitled 79

A. D. 1871.

"An Act to revise, simplify and abridge the rules, practice, pleadings and forms of Courts in this State" be so amended as to read as follows:

SEC. 22. The Circuit Courts in the Fifth Circuit shall be held as follows:

Change of time for holding Court in Kershaw.

1. The Court of General Sessions at Camden, for the County of Kershaw, on the third Monday of January, April and September; and the Court of Common Pleas at Camden, for the County of Kershaw, on the first Thursday after the third Monday of January, April and September.

Richland.

2. The Court of General Sessions at Columbia, for the County of Richland, on the first Monday of February, May and October; and the Court of Common Pleas at Columbia, for the County of Richland, on the second Monday of February, May and October.

Lexington.

3. The Court of General Sessions at Lexington, for the County of Lexington, on the fourth Monday of February, May and October; and the Court of Common Pleas at Lexington, for the County of Lexington, on the first Wednesday after the fourth Monday of February, May and October.

Edgefield.

4. The Court of General Sessions at Edgefield, for the County of Edgefield, on the first Monday of March, June and November; and the Court of Common Pleas at Edgefield, for the County of Edgefied, on the second Monday of March, June and November.

SEC. 2. Section 18 of the Act mentioned in the third Section of this

Act is hereby amended so as to read as follows:

Orangeburg.

The Court of General Sessions at Orangeburg, for the County of Orangeburg, on the first Monday of January, May and October; and the Court of Common Pleas at Orangeburg, for the County of Orangeburg, on the first Wednesday after the first Monday of January, May and October.

Sec. 3. That all writs and processes which shall have been made returnable to the Courts of any of the said Counties, according to the laws heretofore of force, shall be legal and valid, to all intents and purposes, for the Courts next to be held in the said Counties, respectively, according to the provisions of this Act; and all persons already summoned, or who may hereafter be summoned, to attend the Courts of any of the said Counties as jurors or witnesses, or who are now or hereafter shall be bound in recognizance to appear at any of the said Courts, according to the laws heretofore of force, shall be, and are hereby, required to attend or appear at the Courts of the said Counties, respectively, next to be held, according to the provisions of this Act.

Approved March 10, 1871.

A. D. 1870.

JOINT RESOLUTIONS.

JOINT RESOLUTION AUTHORIZING THE STATE LIBRARIAN TO Cause to be Prepared an Index to Volume XIV of the Stat-UTES OF THIS STATE.

No. 1.

Whereas, in binding the Statutes of the State of South Carolina at Large, designed to form the Fourteenth Volume, it becomes necessary that an index of contents be prepared for the same; therefore,

Preamble.

Section 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Librarian be, and he is hereby, authorized to cause to be compiled an index of contents to the authorized to Fourteenth Volume of the Statutes of this State, at a cost not exceeding dex. one hundred and ninety dollars.

Libra r i a n

SEC. 2. That the Treasurer of the State be, and he is hereby, authorized and directed to pay the amount, named in the preceding Section, authorized to out of any public funds not otherwise appropriated, on receipt of sufficiency. cient evidence of the completion of the work.

Approved December 19, 1870.

JOINT RESOLUTION AUTHORIZING AND DIRECTING THE STATE AUDITOR AND COUNTY COMMISSIONERS TO LEVY CERTAIN TAXES.

No. 2.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Auditor be, and he is hereby, authorized and directed to levy and cause to be collected a tax of nine (9) mills lar. on a dollar of all taxable property in the State, to meet appropriations for the fiscal year 1870, and the County Commissioners of each of the County tax—Counties are hereby authorized to levy and cause to be collected a tax dollar. not exceeding three (3) mills on a dollar of all taxable property in their respective Counties for the fiscal year 1870, excepting the County Commissioners of Beaufort, Georgetown, Barnwell, Newberry, Pickens, Edgefield and Laurens Counties, who are hereby authorized to levy and cause to be collected a tax not exceeding four (4) mills on the dollar, and excepting the Counties of Clarendon, Darlington, Horry and Richland, who are hereby authorized to levy and collect a tax not exceeding five (5) mills on the dollar; two (2) mills of the said tax, so levied in Darlington County, shall be devoted to the completion of the Court House at Darlington, provided so much shall be necessary.

State tax-9 mills on a dol-

Counties ex-

Approved December 23, 1870.

A. D. 1871.

No. 3.

JOINT RESOLUTION AUTHORIZING THE ATTORNEY-GENERAL TO EMPLOY ASSISTANCE IN CERTAIN SUITS NOW PENDING, AND MAKING AN APPROPRIATION FOR THE SAME.

Preamble.

Whereas, as appears by the Report of the State Auditor, the South Carolina, Northeastern, Cheraw and Darlington Railroad Companies have procured suits to be brought against themselves in the United States Circuit Court, for the purpose of contesting the right of the State to tax their property; and whereas, it is to the interest of the State that a speedy decision of these suits shall be reached; therefore,

May employ assistance.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Attorney-General be, and he is hereby, authorized to employ such assistance as he may need in defending the interest of the State in the society and to now formula assistance.

\$5,000 appropriated.

How paid.

ing the interest of the State in these suits; and, to pay for such assistance, five thousand dollars, if so much be necessary, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated; the accounts to be audited by the State Auditor, and paid upon the warrant of the Comptroller-General.

Approved December 23, 1870.

No. 4. JOINT RESOLUTION AUTHORIZING THE STATE AUDITOR TO SUSPEND PROCEEDINGS IN CERTAIN CASES.

State Auditor to stay proceedings against certain rallroad companies.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Auditor be, and is hereby, authorized and instructed to suspend all proceedings under the Act to provide for the assessment and taxation of property, passed 15th day of September, 1868, relative to the assessment and taxation of the South Carolina, Northeastern, and Cheraw and Darlington Railroad Companies, until the suits brought by the said Companies in the United States Circuit Court shall have been decided.

Approved January 14, 1871.

JOINT RESOLUTION AUTHORIZING THE COUNTY COMMISSIONERS OF No. 5.

WILLIAMSBURG COUNTY TO LEVY A SPECIAL TAX.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That, in addition to the tax heretofore authorized

use#bd-google http://www.hathitrust.org/access to be levied, the County Commissioners of Williamsburg County are hereby authorized to levy and cause to be collected a special tax of two (2) mills on a dollar, the same to be used exclusively for the purpose of rebuilding the jail in the said County.

Tax of two mills on a dollar.

JOINT RESOLUTION AUTHORIZING THE COUNTY COMMISSIONERS OF OCONEE COUNTY TO LEVY A SPECIAL TAX.

No. 6.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That, in addition to the tax heretofore authorized to be levied, the County Commissioners of Oconee lar. County are hereby authorized to levy and cause to be collected a special tax of one mill on a dollar, the same to be used exclusively to paying the indebtedness of the County.

Approved January 23, 1871.

Approved January 19, 1871.

JOINT RESOLUTION FOR THE RELIEF OF SAMUEL COCHRAN, THOMAS COCHRAN, ELIZABETH COCHRAN, JULIANA IRVINE, ISA-BELLA IRVINE AND HENRIETTA IRVINE.

No. 7.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That any and all property, real or personal, of the will and teslate Juliana Izard, deceased, now in the possession, or under the control, tament of Juof B. C. Pressley, Esq., of Charleston, South Carolina, Executor of the be executed last will and testament of said Juliana Izard, deceased, be distributive international control of the ted and disposed of according to the true intent and purpose of the said Juliana Izard, as indicated in the last will and testament, and that the right of the State to said property be, and the same hereby is, released.

Approved January 26, 1871.

JOINT RESOLUTION AUTHORIZING THE EXECUTIVE TO COMMISSION RIDLEY K. CARLTON AS CORONER OF BEAUFORT COUNTY.

No. 8.

Whereas, Elisha P. Hutchinson, elected Coroner of Beaufort County for four years, ending October, 1872, has removed his residence to a for-

Preamble.

priated.

A. D. 1871.

eign country, to wit: Germany, without duly filing his letter of resignation of his office, and the said office has remained vacant from and after March, 1870; and whereas, notwithstanding due proclamation was not made previous to the late general election, that a vacancy existed in the said office of Coroner in said County, the people did proceed to vote for Coroner, and Ridley K. Carlton was afterwards declared by the Board of County Canvassers to have received the highest number of votes for Coroner of said County;

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Ridley K. Carlton, elected to commis-Coroner of Beaufort County at the general election of October 19th, sion Coro. 1870, be commissioned by the Executive of South Carolina as Coroner,

to fill the unexpired term of Elisha P. Hutchinson.

Approved February 11, 1871.

No. 9. JOINT RESOLUTION TO AUTHORIZE THE STATE LIBRARIAN TO PUR-CHASE CERTAIN VOLUMES OF STATE REPORTS.

Resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Librarian of the State Legislative Library be, and he is hereby, authorized to purchase, for the use of the Liappro- brary, such Volumes of State Reports, both of Law and Equity, as will complete one whole set of the same, including the necessary Digests, and that five hundred dollars be appropriated for the payment thereof, if so much be necessary.

Approved March 1, 1871.

JOINT RESOLUTION ORDERING THAT THE HON. JAMES L. ORR, No. 10. JUDGE OF THE EIGHTH JUDICIAL CIRCUIT, BE ALLOWED EXTRA COMPENSATION FOR HOLDING EXTRA COURTS.

Resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Hon. James L. Orr, Judge of the \$300 appro-Eighth Judicial Circuit, be allowed an extra compensation of eight hunpriated. dred (800) dollars, for holding extra Courts thirteen weeks in the Counties of Edgefield, Abbeville, Newberry, Laurens and Spartanburg, which said Counties were not included in his Circuit.

Approved March 1, 1871.

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JOINT RESOLUTION DIRECTING THAT FUNDS KNOWN AS "CANBY SCHOOL FUND" REMAINING IN HANDS OF COUNTY TREASURERS BE APPROPRIATED TO THE FREE SCHOOL FUND.

A. D. 1871. No. 11.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by \$25,000 for the support of Free Schools for the year commencing October 31, 1867, and ending October 31, 1868, and because of the support of ber 31, 1867, and ending October 31, 1868, and known as the "Canby teachers Fund," now remaining in the hands of the several County Treasurers, be, and the same is hereby, appropriated for the payment of teachers' claims in the several Counties, for the fiscal year commencing November 1, 1869, and any unexpended balance of the same shall be applied to the Free School Fund of said Counties.

Approved March 1, 1871.

JOINT RESOLUTION TO PROVIDE FOR THE PAYMENT OF MILEAGE CERTIFICATES OF MEMBERS OF THE STATE BOARD OF EDUCATION OF THE STATE OF SOUTH CAROLINA.

No. 12.

Whereas Section 2 of an Act entitled "An Act to establish and maintain a system of Free Common Schools for the State of South Carolina," approved February 16, 1870, distinctly sets forth that members of the State Board of Education of the State of South Carolina shall be entitled to receive a mileage at the rate of twenty (20) cents per mile, going to and returning from the meetings of the said State Board of Education, to be paid by the State Treasurer on presentation of a certificate signed by the Chairman and Secretary of the Board aforesaid; and whereas meetings of the said State Board of Education have been held in the city of Columbia, namely: on the sixteenth, seventeenth and eighteenth days of March, 1870, and on the fifth, sixth and seventh days of October, 1870; and whereas certificates of mileage, properly made out and signed by the Chairman and Secretary of the Board, were issued to members in attendance at the said meetings of the said State Board of Education; and whereas the State Treasurer refused to cash said certificates of mileage, when presented to him for payment, giving as his reason that no specific appropriation had been made for that purpose; and whereas of the appropriation of twenty thousand (20,000) dollars for the pay of County School Commissioners, as specified in Section 4 of an Act entitled "An Act to make appropriations and raise supplies for the year commencing in October, one thousand eight hundred and sixtyeight," approved March 23, 1869, there remains in the State Treasury an unexpended balance of four thousaid eight hundred and twenty-two (4,822) dollars and forty-one (41) cents; therefore,

Preamble.

Section 1. Be it resolved by the Senate and House of Representatives

A. D. 1871.

of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the aforesaid balance of four thousand eight hundred and twenty-two (4,822) dollars and forty-one (41) cents, remaining and unexpended, of the appropriation of twenty thousand (20,000) dollars, for the pay of County School Commissioners, for the fiscal year ending October 31, 1869, be, and the same is hereby, appropriated and set apart for the payment of mileage certificates of members of the State Board of Education of the State of South Carolina, and the same shall be applied by the State Treasurer for the payment of the mileage certificates aforesaid.

Payment of certifficates.

> Sec. 2. That this Joint Resolution shall take effect from its passage. Approved March 1, 1871.

JOINT RESOLUTION AUTHORIZING A. R. TAYLOR, HENRY ARTHUR No 13. AND OTHERS, OF LEXINGTON COUNTY, TO CONTINUE, FOR A TERM OF Two Years, two Gates Erected by them Across the Old State Road, in said County, at the Beginning and Terminus of their PLANTING LANDS.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That A. R. Taylor, Henry Arthur and others, of the County of Lexington, be, and they are hereby, authorized to continue, for a term of two years, two gates erected by them across the Old State Road, in said County, at the beginning and terminus of their planting lands.

May erect gales.

Approved March 2, 1871.

JOINT RESOLUTION TO PROVIDE FOR THE PUBLICATION OF THE No. 14. DECISIONS OF THE SUPREME COURT, DELIVERED DURING THE YEARS 1868, 1869 AND 1870.

Section 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assem-J. S. G. Rich- bly, and by the authority of the same, That the Justices of the Suardson to pre- preme Court be authorized to contract with the Hon. J. S. G. Richardson, of Sumter, South Carolina, to prepare for publication, and superintend the same, the decisions of the Supreme Court delivered during the years of 1868, 1869 and 1870, now on file, at a price not exceeding one thousand *.000 appro- dollars, and the printing of said decisions shall be done by the Republican Printing Company.

printed for work.

SEC. 2. That William Hutson Wigg, late Reporter of the Supreme Court, on demand of the Honorable J. S. G. Richardson, after the making of the contract in the first Section provided for, deliver to said Richardson the certified copies of the decisions of the Supreme Court fursished him by the Clerk of the Supreme Court, during his term of office, pers in his and all other papers relative to said decisions, coming to him by virtue of possession relating thereto his office.

A. D. 1871.

Approved March 2, 1871.

JOINT RESOLUTION Authorizing the State Treasurer to Re-ISSUE TO JOHN PHILLIPS, EXECUTOR OF JOHN CAMPBELL, DECEASED, CERTAIN CERTIFICATES OF STATE STOCK.

No. 15.

Whereas, it appears by the books of the State Treasurer, that there has been duly issued certain certificates of State Stock, to the amount of five thousand six hundred and sixty dollars (\$5,660) to John Phillips, Executor of John Campbell, deceased; and whereas, said stock was lost or destroyed at the burning of Columbia, in February, 1865; and whereas, it is equitable and just that the stock should be renewed on the part of the State: therefore,

Preamble.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer be, and he is hereby, authorized to re-issue to the said John Phillips, Executor of John Camp- to re is sue bell, deceased, certificates of stock of the same amount, payable at the same time, and bearing the same rate of interest as those lost or destroyed; and that the said John Phillips is hereby required to deposit with the and that the said John Phillips is hereby required to deposit with the Bond to be State Treasurer a bond, legally executed, in the penal sum of eleven state Treasurer. thousand three hundred and twenty dollars, (\$11,320), to indemnify the ury. State against loss.

Treasu r e r

Approved March 2, 1871.

JOINT RESOLUTION MAKING AN APPROPRIATION OF FORTY-SEVEN THOUSAND DOLLARS FOR THE COMPLETION OF THE STATE LUNATIC ASYLUM, AND FOR OTHER PURPOSES.

No. 16.

Section 1. Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the sum of forty thousand dol-

A. D. 1871. \$40,000 for unfinished wing.

lars (\$40,000) be, and the same is hereby, appropriated, if so much be necessary, to complete the unfinished wing of the State Lunatic Asylum: Provided, That a contract shall be entered into between the Board of Regents and the contractor, specifying definitely the work to be done, and the manner of doing the same, and the said contract to be approved according to law, before any portion of the appropriation is paid.

\$5,000 for furniture.

SEC. 2. That the sum of five thousand dollars (\$5,000) be, and the same is hereby, appropriated to purchase furniture for the building known as the "New Asylum," and to refurnish the "Old Asylum."

\$2,000 for heating apparatus.

Sec. 3. That the sum of two thousand dollars (\$2,000) be, and the same is hereby, appropriated for the purpose of building chimneys and furnishing stoves for heating the "Old Asylum."

How paid.

SEC. 4. That the above appropriation of forty-seven thousand dollars shall be paid by the State Treasurer, upon the order of the Board of Regents of the State Lunatic Asylum, approved by the Governor, and the said orders shall be vouchers for the same.

Approved March 6, 1871.

RESOLUTION AUTHORIZING THE STATE AUDITOR No. 17. AND COUNTY COMMISSIONERS TO LEVY CERTAIN TAXES.

three mills.

County Com-

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the State Audi authority of the same, That the State Auditor be, and he is hereby, authortor shall levy ized and directed to levy, and cause to be collected, a tax not exceeding seven mills. seven (7) mills on a dollar on all taxable property in the State, to meet appropriations for the fiscal year 1871; and the County Commissioners of mission ers the several Counties in the State are hereby authorized to levy, and cause shall levy to be collected a tay not to exceed three (3) mills on a dellar on the tay to be collected, a tax not to exceed three (3) mills on a dollar on the taxable property in the respective Counties, for the fiscal year 1871. Approved March 7, 1871.

JOINT RESOLUTION TO CONFIRM THE APPORTIONMENT MADE BY THE No. 18. SUPERINTENDENT OF EDUCATION OF THE STATE OF SOUTH CAROLINA OF THE FREE SCHOOL FUND, FOR THE FISCAL YEAR ENDING OCTO-BER 31, 1869.

Whereas, the Superintendent of Education of the State of South Car-Preamble. olina, in the adjustment of teachers' claims, for services rendered during

or within the fiscal year commencing November 1, 1868, and ending October 31, 1869, did apportion the Free School fund for the fiscal year aforesaid, (said fund consisting of \$50,000, in addition to the amount raised by capitation tax,) among the several Counties, according to the plan specified in Section 6 of an Act to make appropriation and raise supplies for the fiscal year commencing November 1, 1869; therefore,

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and ment conby the authority of the same, That the apportionment made by said firmed. Superintendent of Education of the State of South Carolina be, and the same is hereby, confirmed.

Approved March 7, 1871.

A. D. 1871.

Apportion-

JOINT RESOLUTION TO AUTHORIZE STATE TREASURER TO RE-No. 19. 18SUE TO W. B. PRINGLE, EXECUTOR OF MBS. BERTHA SKIRVING, CERTIFICATE OF STATE STOCK.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer be, and he is hereby, Treasurer to authorized to re-issue to W. B. Pringle, Executor of Mrs. Bertha Skir-re-issue stock to W. B. Pringle, ving, deceased, certificate of State stock, of the same amount, payable at glo. the same time, bearing the same interest, as those lost or destroyed, (certificate 19, issue of 1856, for construction of a new State Capitol, for \$950,) and that the said W. B. Pringle is hereby required to deposit with the State Treasurer a bond, legally executed, in the penal sum of one thou-deposited Treasury. sand nine hundred dollars, to indemnify the State against loss. Approved March 7, 1871.

JOINT RESOLUTION DIRECTING PART OF A CERTAIN TAX TO BE DEVOTED TO THE ERECTION OF A COURT HOUSE AND JAIL IN MAN-NING.

No. 20.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That two mills of the tax which the County Com- Two reserved. missioners of the County of Clarendon are authorized to levy and collect

Two mills

A.D. 1871.

for the fiscal year 1870, shall be devoted to the erection of a Court House and Jail at Manning: Provided, So much shall be necessary.

Approved March 7, 1871.

No. 21. JOINT RESOLUTION AUTHORIZING THE STATE TREASURER TO RE-ISSUE STOCK OF THE STATE OF SOUTH CAROLINA.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer is hereby authorized and directed to issue certificates of State of South Carolina Stock No 53, for same of stock. \$3,000, due July 1st, 1870, interest 6 per cent.; No 72, for \$1,000, due August 4, 1870, interest 6 per cent., to Rinah S. Cohen, Executrix of S. T. Cohen.

Approved March 9, 1871.

No. 22. JOINT RESOLUTION AUTHORIZING THE ATTORNEY-GENERAL TO PURCHASE A FIRE PROOF SAFE FOR THE USE OF THE ATTORNEY-GENERAL'S OFFICE.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Attorney-General be, and he is hereby, authorized to purchase a fire proof safe for the use of the Attorney-General's office, at a cost of not more than eight hundred dollars.

Approved March 9, 1871.

No. 23. JOINT RESOLUTION TO PAY WILLIAM B. TIMMONS TWO HUNDRED AND THIRTY-THREE DOLLARS AND FORTY-FOUR CENTS.

Beit resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the sum of two hundred and thirty-three dollars and forty-four cents be, and the same is hereby, authorized to be paid

to William B Timmons, late Sheriff of Darlington County, for the transportation of prisoners from Darlington Court House to Marion Jail, and for dieting the said prisoners while en route; the same to be paid by the State Treasurer on the order of the Governor.

A. D. 1871.

Approved March 9, 1871.

JOINT RESOLUTION TO EXTEND THE TIME FOR THE COMPLE-No. 24. TION OF THE PORT ROYAL RAILROAD.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the time for the completion of the Port Royal Railroad, and every part thereof, is hereby extended for the period of two years from the passage of this Resolution.

Time extended two years

Approved March 9, 1871.

JOINT RESOLUTION TO AUTHORIZE THE COUNTY COMMISSIONERS OF KERSHAW COUNTY TO LEVY A SPECIAL TAX, FOR THE PUR-POSE OF BUILDING A COUNTY JAIL.

No. 25.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the County Commissioners of Kershaw Maylevytwo County be, and they are hereby, authorized to levy a special tax of two mills on dollar. mills on the dollar upon the assessed value of the real and personal property in said County, for the purpose of erecting a County jail at Camden. Approved March 9, 1871.

JOINT RESOLUTION DIRECTING THE STATE TREASURER TO RE-FUND MESSRS. RISLEY & CREIGHTON SIX HUNDRED AND THREE DOLLARS AND SEVENTY-EIGHT CENTS, TAXES OVERPAID BY THEM.

No. 26.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the A. D. 1871.

authority of the same, That the State Treasurer be, and he is hereby, directed to refund to Messrs. Risley & Creighton, or either of them, the sum of six hundred and three dollars and seventy-eight cents, being the amount of taxes overpaid by them.

Approved March 9, 1871.

Approved March 9, 1871.

No. 27. JOINT RESOLUTION TO ALLOW J. M. PLOWDEN, OF CLARENDON COUNTY, TO REDEEM CERTAIN FORFEITED LANDS.

Redemption of certain lands.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the suthority of the same, That J. M. Plowden, of the County of Clarendon, be, and he is hereby, allowed to redeem certain lands formerly owned by him, in said County, consisting of 387 acres, more or less, which have become forfeited to the State, by virtue of the non-payment of taxes, and the want of bidders at the sale of the same, on condition that he shall pay over to the County Treasurer of Clarendon County, all taxes, penalties and costs which are due upon the same, after which the County Auditor shall expunge the said lands from the forfeited land record of the County of Clarendon.

No. 28. JOINT RESOLUTION AUTHORIZING THE SECRETARY OF STATE TO CONTRACT WITH THE SOUTHERN DOMESTIC GAS LIGHT COMPANY FOR THE ILLUMINATION OF THE STATE HOUSE AND PUBLIC OFFICES THEREIN.

Illumina-House.

Be it resolved by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the Secretary of State be, and he is tion of state hereby, authorized and required to contract immediately with the Southern Domestic Gas Light Company for the construction and application of one of Doty's gas generators, for the purpose of illuminating the State House and public offices thereof, the cost therefor not to exceed two thousand dollars, and to be paid, upon the order of said Secretary of State, out of any moneys in the Treasury not otherwise appropriated. Approved March 10, 1871.

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